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ABSTRACT

This booklet provides source materials for the development of state and local regulations applicable to day care service facilities. Sections discuss: (1) the Model State Day Care Licensing Act, (2) Day care program and staffing, (3) Health and sanitation, (4) Fire and safety regulations, (5) Principles of zoning, and (6) Principles of administration of day care licensing. (SET)

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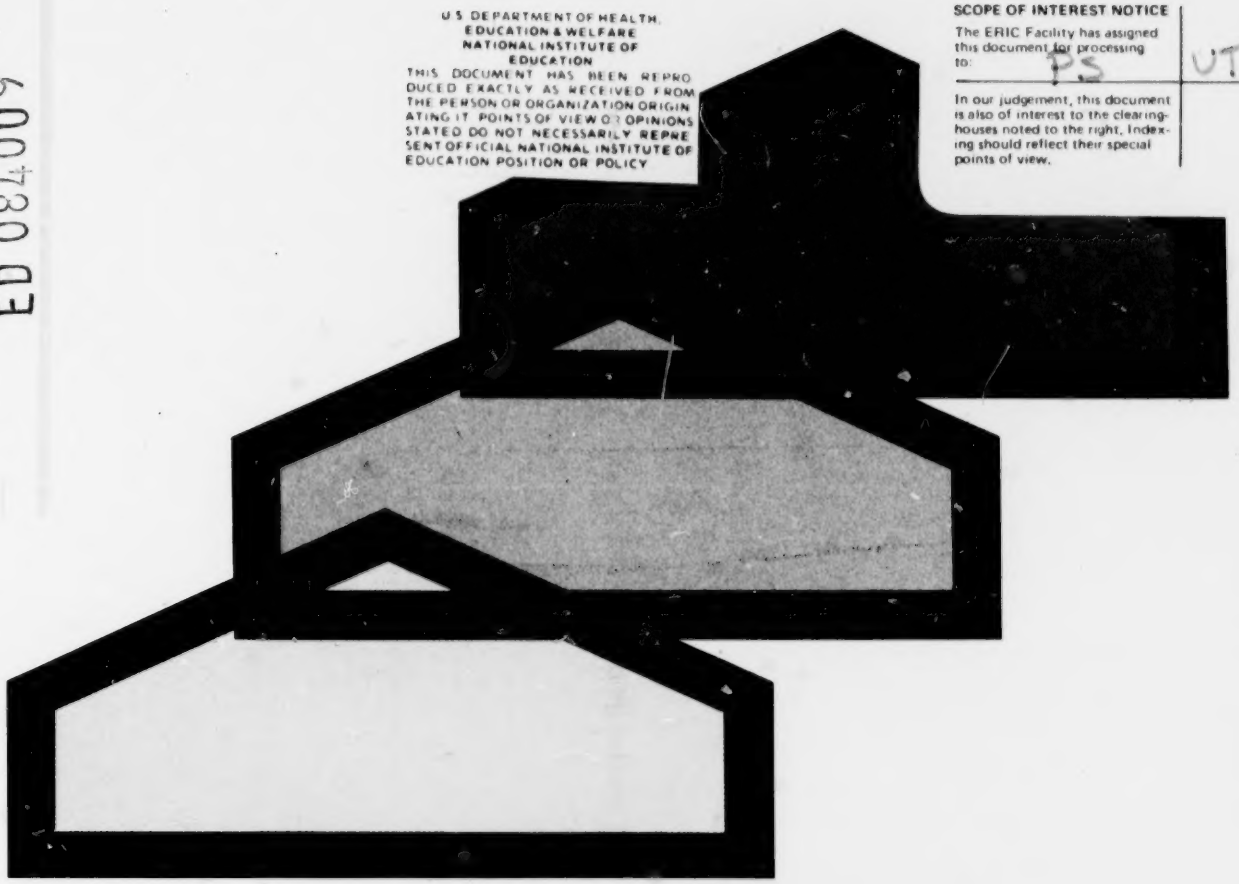

guides for day care licensing

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Child Development
Bureau of Child Development Services

FOREWORD

Over six million children are cared for by someone other than their parents for part of each day. How these children are cared for is of growing concern to parents, providers of care and government.

This document is the major product of a two year effort by the Office of Child Development to assess problems in the licensing of day care facilities and to provide practical guidance to those state and local authorities who are responsible for such activity.

Each of the major areas of concern to those who administer day care licensing activities and day care programs has been explored in depth. Administration of day care licensing, the legal basis for such activities, program and staffing requirements, health and sanitation requirements, fire and safety requirements, and the impact of zoning requirements on day care activities, are the topics for which we have tried to provide guidance in this document. We believe this guidance to be practical, and that the program it outlines is achievable. Implementation of the suggestions should assure that each child in day care will be provided a sound program in a safe environment. This material is not meant to be adopted as it is. We recognize that it will undoubtedly require modification and adaptation to reflect local conditions, existing administrative structures and goals for children's services.

Numerous experts, including state and local licensing authorities, day care officials, day care operators, parents, consumer groups and specialists in pediatrics, law, fire protection, building codes, zoning and other areas related to day care facility licensing provided invaluable assistance to the Office of Child Development in the preparation of these materials.

My grateful thanks is extended to them all.

Saul R. Rosoff

Saul R. Rosoff
Acting Director
Office of Child Development

FORMAT

This document is organized into three sections:

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I
introduction and commentary

INTRODUCTION AND COMMENTARY

This document represents the culmination of two years' work by many public officials and private citizens interested in improving day care licensing practices throughout the Nation. Licensing of day care facilities is historically a function of state and local government, and the materials presented here are intended to serve as source materials to assist state and local officials in meeting their responsibilities to the children in their jurisdictions. It is expected that the material contained in this document will require modification and adaptation to reflect local conditions, administrative systems and child development goals.

Development of the Model Day Care Licensing Guidance Material

In 1970, the Office of Child Development (HEW) and the Office of Economic Opportunity initiated a project to develop model day care licensing and regulatory material for use by appropriate State personnel in the development of day care licensing statutes and regulatory codes. The project was undertaken in response to the growing interest of state governments in revising their day care licensing codes, and in anticipation of an official request for such a study by the House Ways and Means Committee. It was also apparent that problems with the various existing state and local regulatory systems were contributing to the difficulty of expanding day care resources to meet increased demand.

The project consisted of three phases. Each phase was designed to involve child development specialists, day care providers, parents, community groups, and state and local licensing officials, all of whom would be instrumental in revising administrative and licensing procedures. Phase I consisted of a survey of the status of licensing in each state and an assessment of the extent to which licensing requirements and other forms of regulation constrained the expansion of day care facilities. In Phase II a preliminary draft of the model regulatory material was developed through the efforts of task forces established to address six major areas of concern in day care licensing: the legal basis for licensing activities (statute); program and staffing requirements; health and sanitation; fire and safety; administration of licensing activities; zoning requirements and the problems they often present to those wishing to establish day care facilities.

Task Force members included:

State and local licensing authorities

Federal government staff concerned with licensing

Day care operators, both profit and nonprofit, oriented to middle income and lower income

Consumers represented by national organizations

Specialists in such fields as pediatrics, law, fire protection, building codes, zoning, and other areas related to licensing.

Phase III began with the National Conference in San Antonio, Texas, at the end of October, 1971. At the Conference, each of the task forces held forum discussions with representatives of licensing agencies from the fifty states, national organizations with interest in day care, Federal regional officials, representatives of cities with day care licensing regulations, day care operators, Child Care Coordinating Committee (4-C) representatives, and consumers. Each of the conferees at San Antonio and thousands of other persons, organizations, and state and local government officials across the nation reviewed the models and were asked to submit critiques. A special series of regional meetings were held to obtain ethnic and consumer input. The response to the models has been very favorable in terms of the need for such licensing reform.

The task forces were reconvened in May, 1972, the models were revised in the light of the critiques received from the national review process. The models were than presented to HEW for review and final revision. The contribution of all participants in this effort is gratefully acknowledged.

Objectives of Licensing Study

The objective of the licensing study was to develop useful source material for the regulation of day care facilities designed to ensure the protection and well-being of children in day care. The model guides contained in this document are intended to serve as *source material for state and local* officials to use, as appropriate in the revision and improvement of day care licensing procedures.

The objective of the licensing study was also intentionally limited in scope. Specifically these materials:

- are program requirements specifying a level of service quality below which children should not be admitted for care. Day care providers should be encouraged to provide higher quality programs whenever possible.

- should not be confused with the Federal Day Care Requirements. The cost of most day care is met privately. The Federal requirements apply only to children participating in Federally-supported day care. Differences between the Federal requirements and the regulatory guides are explained in detail below.

- are not designed for uniform adoption by all states—the material should be modified to reflect local conditions and child care objectives.

- are purposely not written in precise licensing code language—state governments will need to develop legal language which is compatible with existing legislation and licensing procedures.

Relation to Federal Day Care Requirements

The materials presented in this document offer guidance for the development regulations that would apply to all facilities providing day care services. The Federal Day Care Requirements, on the other hand, are applicable only to facilities providing day care services supported by Federal funds.

It is important to recognize that the model materials and the Federal Day Care Requirements, while similar in many respects, are not identical:

- First, the model day care licensing guidelines provide comprehensive criteria for a number of areas which are covered in a more summary manner in the Federal Day Care Requirements, e.g., fire and building safety and health and sanitation. The model guidelines also include recommendations concerning aspects of day care regulations which are omitted from the Federal Requirements, such as zoning considerations and the administration of day care licensing programs. However, the Federal Day Care Requirements recognize the importance of regulation in all these areas and therefore specifically require that all Federally supported day care services meet State and local licensing requirements.

- The objective of the model licensing regulations is to ensure a basic standard of safeguarding care for all children enrolled in day care programs. The Federal Day Care Requirements, however, apply only to Federally subsidized day care. Various legislative authorities provide Federal support for the day care of children who, because of poverty or other handicapping conditions, must be provided access to needed ancillary services such as health care, dental services, social services, etc. The Federal Day Care Requirements are intended to ensure that children whose day care is provided or purchased through these Federal programs receive services appropriate to their needs.

- While some standards in the Federal Day Care Requirements are higher than those set forth in the model licensing materials, Federal funds are available to help offset the costs of providing the higher level of care. No Federal funds are available to help offset costs generally associated with meeting licensure requirements in day care programs not serving children eligible for Federal day care subsidies.

In meeting the standard levels prescribed by these materials, a day care program will provide a level of care

that safeguards the physical and emotional well-being of each child. More comprehensive developmentally focused programs are possible and are encouraged to the degree that parents are willing to meet the additional costs such programs may require.

COMMENTARY ON EACH SECTION:

Model Day Care Licensing Statute

Although most states presently operate day care licensing programs under the authority of state statutes, experience has shown that, when legally challenged, many of the statutes prove to be deficient. Clear authority is needed in state legislation for the day care licensing agency to deny or revoke licenses and to initiate action in the courts against those facilities which continue to operate after their licenses have been denied or revoked.

In addition to the problem of inadequate legal authority, a study sponsored by the Office of Child Development and the Office of Economic Opportunity uncovered a number of gaps and inconsistencies among state day care licensing statutes. Licensing of Family Day Care Homes is not mandatory in eleven states. Exceptions from licensing requirements are often made for day care programs operated under certain kinds of auspices and some statutes do not cover day care programs operated under another name, e.g., "Play School," "Nursery School." In a few states, licensing is not mandatory for day care facilities in all cities and counties within the state. As a consequence of these gaps and inconsistencies, children in day care are unequally protected by the law.

Another problem identified through the study was the tendency of many states to incorporate detailed regulations in the state statute. Such detailing in the statute requires that change of specific regulations, as needed to keep pace with ever-changing knowledge and conditions in the day care field, take place through legislative action rather than administrative process. This often proves unnecessarily costly and time consuming, and discourages administrators from initiating needed action.

It should be noted that in the definitions in the Model Statute, the term "Family Day Care Home" encompasses what is often termed a "Group Care Home" that serves 7-13 children as well as Family Day Care Homes serving up to 6 children. Other than staffing requirements and some particular requirements in Fire and Safety regulations, requirements for both in this material are the same. For the purposes of this material, it was decided to encompass both terms in "Family Day Care Homes" and simply note the few differences that did exist. States may want to separate out these two care giving situations if it is more practical to define the situations separately because of statutory or regulatory material, or historical practice.

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Guides for the Preparation of Day Care Program and Staffing Codes

This section contains guidance for the development of regulations concerning day care programs and staffing patterns. Indicators of compliance are included under each statement.

The intent of this material is to assure adequate protection of each child served and the provision of a program that will enhance his well-being and healthy growth; it is not intended to impose unnecessary or unreasonable burdens on day care operations. The material presented here is considered to be generally applicable to the small Family Day Care Home as well as to Day Care Centers serving many children. In some instances, compliance with a proposed requirement has been defined differently for the two types of facilities in recognition of their different capabilities, and states might find it desirable to make similar distinctions concerning compliance with other proposed requirements in this document.

However, if the state licensing agency makes an active effort to assist caregivers in meeting standards, the independent Family Day Care Home should be able to achieve compliance. With respect to the requirement that day care operators provide parents with written policies, for example, an administering agency might develop policy statements which could be adapted by such operators to meet their particular situation.

Such an approach to the licensing process should facilitate the development of day care resources and the attainment of a level of care that will be of benefit to every child involved.

Guides for the Preparation of Health and Sanitation Codes

This section is addressed to the health, environmental sanitation and safety aspects of day care for children from birth to age 14. The materials entitled *Health and Sanitation Requirements* cover the following areas:

1) personal health of children, including physical health, nutrition, mental health, and emotional well-being

2) personal health of adult staff as it pertains to their child care responsibilities, and

3) environmental sanitation

Some states now require health services for children in day care which go far beyond the basic services prescribed in this model. There should be no limitation of program to these basic standards if states desire and are willing to contribute the resources needed to maintain higher standards.

The OCD/OEO licensing study revealed that state codes vary greatly as to the scope and quality of health services requirements. Certain aspects of health are totally ignored or given minimum attention in nearly all present licensing standards and guidelines. These neglected aspects include specific attention to dental health, the special needs of the infant and toddler, the importance of including the child with special needs in a program for "normal" children, the care of children with acute illnesses, staff training in child health needs, the importance of "disaster planning" and staff training in first aid techniques, and the need for health consultation services appropriate to day care on both the state and community level.

The mental health needs of children in day care are especially neglected in state codes. For example, formal parent involvement in the day care program is not required in most licensing regulations. Such involvement is needed to insure the continuity between the day care experience and the home which is essential to the child's healthy emotional development.

In addition to substantive problems, many state codes concerning health, sanitation, and safety appear to contain detailed requirements which do not provide sufficient flexibility to permit different communities and groups to utilize the methods most appropriate to meet their needs. Codes also contain many "proper formalities" (such as a required physical examination for a child or staff member), which are expensive in time and money, without regard for prior or subsequent health care and without contributing substantially to the welfare of the children served. The proposed requirements are designed to provide for flexibility in the development of health services and physical facilities while establishing basic principles of health and safety which are absolutely essential for the well-being of children in day care.

Model Fire and Safety Regulations

The Model Fire and Safety Regulations are concerned with building codes, fire safety practices, and general safety aspects of the day care facility.

Principles of Zoning

Restrictive zoning laws have often been a barrier to development of needed services. For the purpose of zoning, it is recommended that a day care facility be considered comparable to an elementary school and allowed in any zoning district as long as licensing requirements have been met and no physical hazard can be reasonably anticipated. Flexible application of zoning requirements is recommended in order to accommodate the life style of the community and the differences of day care resources that occur between developed and developing areas of the community.

Principles of Administration of Day Care Licensing

The intent of this material is to highlight current problems in licensing administration and to present an ap-

proach that is designed to resolve some of the major problems which inhibit effective administration of this important regulatory function. The problems are attributable to many factors at the state and local level. Perhaps the greatest impediment to effective functioning is the fragmentation of day care licensing responsibility between various administrative organizations. This fragmentation has led to confusion about the purpose of licensing, conflict between various agencies involved in the issuance of licenses, and resulting lack of clear regulations, policies and procedures.

While a single administrative structure designed to overcome those problems has been outlined in the following pages, it is important to note that alternative structures may be desirable in some states. Whatever structure is utilized, the problems noted in this material must be addressed or day care licensing will continue to be fragmented, confused, and an impediment to the development of quality services for children.

II
models and guidance material

for development of

A. MODEL STATE DAY CARE LICENSING ACT
B. PROGRAM AND STAFFING REQUIREMENTS
C. HEALTH AND SANITATION REQUIREMENTS
D. FIRE AND SAFETY REQUIREMENTS

A. MODEL STATE DAY CARE LICENSING ACT

PURPOSE: This Act authorizes the licensing of day care for children. Licenses are authorized if the Act and applicable rules and regulations are met. Penalties are established if day care is provided without the required license. The purpose of licensing is to regulate the provision of day care for children so as to assure care, protection, supervision and the promotion of sound growth and development necessary to their health, safety, and welfare.

SECTION 1. This Act shall be entitled The Child Day Care Licensing Act.

SECTION 2. Definitions.

a) **DAY CARE**. The care, supervision, and guidance of a child or children, unaccompanied by parent, guardian or custodian, on a regular basis, for periods of less than 24 hours per day, in a place other than the child's or the children's own home or homes.

b) **DAY CARE FACILITY**. Means a "family day care home," or a "day care center," as defined in this Act, whether known or incorporated under some other descriptive title or name such as "Day Nursery," "Nursery School," "Child Play School," "Child Development Center," "Early Childhood Center," and the like: provided, however, that "Day Care Center" does not include a public or private educational facility in providing legally authorized educational and related functions.

c) **FAMILY DAY CARE HOME**. An occupied residence in which day care is regularly provided for no more than 12 children from more than one unrelated family. The maximum of 12 children includes children living in the home, and children received for day care who are related to the resident caregiver. Provided, however, that an occupied residence in which day care is regularly provided only for a child or children related to the resident caregiver, or only for the child or children of one unrelated family, or only for a combination of such children is not a family day care home.

d) **DAY CARE CENTER**. (1) Any facility other than an occupied residence which regularly receives one or more children for day care. (2) Any facility including an occupied residence which regularly provides day care for 13 or more children including children living in the home and children received for day care who are related or unrelated to the resident caregiver.

e) **DAY CARE SYSTEM**. An organization of individual day care facilities in which each facility is related to a licensed or approved central operator by an exclusive contractual arrangement whereby the facility receives children for day care only from the central operator, which also, under the contractual arrangement, undertakes to provide the facility with central administrative services including, but not limited to, consultation, technical assistance, training, supervision, evaluation, and provisions of or referral to health and social services.

f) **CENTRAL OPERATOR**. The person, corporation, partnership, voluntary association, or other private or public organization which, in addition to other activities, if any, operates a day care system in the course of which it provides central administrative services for the individual facilities related to it, and establishes and enforces standards of maintenance and operation of such facilities which meet or exceed the requirements for licensing under this act.

g) **DAY CARE OPERATOR**. The person, corporation, partnership, voluntary association, or other public or private organization ultimately responsible for the overall operation of a day care facility.

h) **CAREGIVER**. Any person whose duties include direct care, supervision and guidance of children in a day care facility.

i) **CHILD**. A person who has not reached the eighteenth birthday.

j) **DEPARTMENT**. The State agency designated to administer day care licensing under this Act.

k) **BOARD**. The State Advisory Board on day care licensing named under this Act to advise the department.

l) **DIRECTOR**. The administrative head of the

m) **REGULARLY**, or, on a regular basis. This terms refer to the frequency with which day care services are available and provided at a facility in any one week. These terms mean the availability and provision of periods of day care on more than one day in such week.

n) **RELATED**. Any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, step-parent, step-sister, step-brother, uncle, aunt.

o) **LICENSE**. A complete and unconditioned license issued to an operator of a day care facility, or to the central operator of a day care system, authorizing the licensee to operate in accordance with the provisions of the license, this Act, and the rules and regulations of the department.

p) **PROVISIONAL LICENSE**. A license issued to an operator of a new day care facility, or to the central operator of a new day care system, authorizing the licensee to begin operations although the licensee is temporarily unable to comply with all of the requirements for a license.

q) **APPROVAL**. A written notice issued to a department, agency, or institution of the State, or a county, city, or other political subdivision, approving the operation of a day care facility or a day care system in accordance with the provision of the notice, this Act, and the rules and regulations of the department.

r) **PROVISIONAL APPROVAL**. A written notice issued to a department, agency, or institution of the State, or a county, city, or other political subdivision approving the commencement of operations of a day care facility or a day care system although the operator is temporarily unable to comply with all of the requirements for approval.

SECTION 3.

a) No person, corporation, partnership, voluntary association, or other organization may operate a day care facility or a day care system unless licensed to do so by the Department: Provided, however, that operators of day care facilities which are parts of a day care system need not be individually licensed if the Department finds, on the basis of investigations and inspections, that the central operator has established and is enforcing standards of maintenance and operation of the facilities which meet or exceed the requirements for licensing under this Act; provided, further, operation of a home specifically excluded from the definition of family day care home shall not preclude the issuance of a license if application is made for one.

b) Day care facilities and day care systems operated by the State, or by a couny, city, or other political subdivision, must meet or exceed requirements for maintenance and operation which must be met by licensed operators of day care facilities and day care systems. The department, agency, or institution of the State, or the county, city, or other political subdivision which operates a day care facility or facilities or a day care system or systems shall obtain approval from the department rather than licensure in order to operate such facility or facilities or such system or systems. The department shall provide visitation, consultation, and information services to such departments, agencies, or institutions of the State, and to such counties, cities, or other political subdivisions.

c) Application for license or approval shall be made on forms supplied by the Department and in the manner it prescribes.

d) Before issuing a license or approval the Department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a day care facility or day care system. If the results of the investigation satisfy the department that the provisions of this Act and the applicable rules and regulations promulgated by the department are satisfied, a license or approval shall be issued. If the results of the investigation satisfy the Department that all of the applicable rules and regulations cannot be met immediately but can and will be met within six months or less, and the deviations do not threaten the health or safety of the children, then a provisional license or provisional approval shall be issued for a period not to exceed six months from the date of such issuance.

SECTION 4.

a) An applicant who has been denied a license by the Department shall be given prompt written notice thereof by certified or registered mail to the address shown in the application. The notice shall contain a statement of the reasons for the denial and shall inform the applicant that there is a right to appeal the decision to the Director in writing within 30 days after the mailing of notice of denial. Upon receiving a timely written appeal the Director shall give the applicant reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner with respect to the denial of the application. On the basis of the evidence adduced at the hearing, the hearing examiner shall make the final decision of the Department as to whether the application shall be granted either for a license or a provisional license or denied.

b) An applicant who has been denied approval by the Department shall be given prompt written notice thereof, which shall include a statement of the reasons for the denial. The notice also shall inform the applicant that it may, within 30 days after the mailing of the notice of denial appeal the denial by making a written request to the director for an opportunity to show cause why its application should not be denied. Upon receiving a timely written request the director shall give the applicant reasonable notice and an opportunity for a prompt, informal meeting with the director or his designee with respect to the denial of the application and an opportunity to submit written material with respect thereto. On the basis of the available evidence, including information obtained at the informal meeting and from the written material, the Director shall decide whether the application shall be granted for approval, provisional approval or denied. The decision of the Director shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise.

Failure of the Department to approve or deny an application within 90 days shall be deemed to be a denial of license or approval and entitles the applicant to appeal.

SECTION 5.

a) The Department shall have power to suspend, revoke, or make probationary a license or approval if a licensee or approved operator is found not to comply with the rules and regulations of the Department respecting day care facilities or day care systems. In the case of a day care system, the license or approval may be suspended, revoked or made probationary in whole, or in part with respect to those day care facilities affiliated with the system which are found not to comply with the applicable rules and regulations.

b) A licensee or approved operator whose license or approval is about to be suspended, revoked or made probationary shall be given written notice by certified or registered mail addressed to the location shown on the license or approval.

The notice shall contain a statement of and the reasons for the proposed action and shall inform the licensee or approved operator that there is a right to appeal the decision to the director in writing within 10 days after the mailing of the notice of the proposed action. In the case of a license, upon receiving a timely written appeal the director shall give the licensee reasonable notice and an opportunity for a prompt hearing before a hearing examiner with respect to the proposed action. On the basis of the evidence adduced at the hearing, the hearing examiner shall make the final decision of the Department as to whether the license shall be suspended, revoked or made probationary.

In the case of an approval, upon receiving a timely written appeal, the director shall give the approved operator reasonable notice and an opportunity for a prompt, informal meeting with the Director or his designee with respect to the proposed action, and an opportunity to submit written material with respect thereto. On the basis of the available evidence including information obtained at the informal meeting and from the written material, the Director shall decide whether the approval shall be suspended, revoked or made probationary. The decision of the Director shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise. If no timely written appeal is made, the license shall be suspended, revoked or made probationary as of the termination of the 10 day period.

Provided, however, that if the Director finds that the health or safety of the children so requires, he shall order the immediate suspension of the license or approval. The licensee or approved operator shall be given written notice of the order by personal service or by certified or registered mail addressed to the location shown on the license or approval. The notice shall contain a statement of the reasons for the suspension and shall inform the licensee or approved operator that there is a right to petition the Director to reconsider the order. The petition shall be in writing and shall be made within 10 days after the personal service or the mailing of the order. In the case of a license, upon receiving a timely written petition, the Director shall give the licensee or approved operator reasonable notice and an opportunity for a prompt hearing before a hearing examiner with respect to the order of suspension of the license or approval. On the basis of the evidence adduced at the hearing, the hearing examiner shall make the final decision of the Department as to whether the order of suspension shall be affirmed or reversed.

In the case of an approval, upon receiving a timely written petition, the Director shall give the approved operator reasonable notice and an opportunity for a prompt, informal meeting with the Director or his designee with respect to the proposed action, and an opportunity to submit written material with respect thereto. On the basis of the available evidence, including information obtained at the informal meeting and from the written material, the Director shall decide whether the order of suspension shall be affirmed or reversed. The decision of the Director shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise.

c) At the hearing provided for by this section or by Section 4, the applicant or licensee may be represented by counsel, and has the right to call, examine and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on behalf of the appellant or Department. Hearing examiner decisions shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise.

SECTION 6.

a) The Department shall devleop and promulgate rules and regulations for the operation and maintenance of day care facilities and day care systems, and for the granting, suspending revoking and making probationary of both licenses and approvals and provisional licenses and provisional approvals. In developing such rules and regulations the Department shall consult with:

(1) Other appropriate State agencies including the State Board of Health, the State Department of Education, the State Fire Marshal and the State Attorney General. The agencies consulted are hereby directed to cooperate with and assist the Department in developing appropriate rules and regulations for the licensing and approval of day care facilities and day care systems.

(2) Parents, guardians or custodians of those children who use the service.

(3) Child advocacy groups.

(4) The State Advisory Committee on day care licensing established by this Act

(5) Representatives of those who operate day care centers.

(6) Experts in the various professional fields which are relevant to child care and development.

Draft formulations shall be widely circulated for criticism and comment.

b) The rules and regulations for operating and maintaining day care facilities and day care systems shall be designed to promote the health, safety and welfare of the children who are to be served by assuring safe and adequate physical surroundings and healthful food; by assuring supervision and care of the children by capable, qualified personnel of sufficient number; by assuring an adequate program of activities and services to enhance

the development of each child; and by encouraging parental participation.

The rules and regulations with respect to granting, suspending, revoking and making probationary licenses and approvals and licensing and approval administration shall be designed to promote the proper and efficient processing of matters within the cognizance of the Department and to assure applicants, licensees and approved operators fair and expeditious treatment under the law.

c) The Department shall conduct a comprehensive review of its licensing and approval rules and regulations, at least once each three years.

d) The rules and regulations shall be published in such a way as to make them readily available to the public.

e) The Department shall publish a proposed final draft of the rules and regulations, and amendments, as required by the provisions of [the State Code of Administrative Procedure]; provided, however, that, in any event, they shall be published in media of general circulation in order to reach the public statewide at least 60 days and no more than 90 days before they are proposed to go into effect. The publication also shall invite comments by interested parties. A public hearing will be held at least 30 days prior to adoption of the rules and regulations by the Department.

SECTION 7. The operation of a day care facility or a day care system without a license is a misdemeanor punishable _____. The Department is empowered to seek an injunction in the _____ Court against the continuing operation of a day care facility or a day care system:

(1) When there is any violation of this Act or of the rules and regulations promulgated by the Department which threatens serious harm to children in the day care facility, or

(2) When a licensee or approved operator has repeatedly violated this Act or any of the rules and regulations of the Department.

Proceedings for securing such injunctions may be brought by [the Attorney General, or by the County Attorney or District Attorney of the Jurisdiction in which the day care facility is located].

SECTION 8. Regular licenses and approvals expire at the end of one year from the date of issuance except that when a license or approval is issued immediately following the expiration of a provisional license or approval the expiration of the license or approval shall be one year from the date of the expiration of the original license or approval. Licenses and approvals may be renewed upon application and approval.

Each license certificate and written approval shall clearly state the kind of program the licensee or approved operator is permitted to undertake, the address of the licensee or approved operator, and the number of children who may be served.

SECTION 9. In exercising the powers of licensing, approving, renewing, suspending, revoking, or making probationary licenses and approvals the Department shall investigate and inspect licensees and approved operators and applicants for a license or an approval. The authorized representative of the Department may visit a day care facility or day care system at any time during the hours of operation for purposes of investigations and inspections. In conducting investigations and inspections, the Department may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields and it is authorized to contract for and effect payment for such assistance.

The licensee, approved operator or applicant shall cooperate with the investigation and inspection by providing access to its facilities, records and staff. Failure to comply with the reasonable requests of the Department in connection with the investigation and inspection is a ground for revocation of license or approval or for a denial of application. The investigation and inspection may involve consideration of any facts, conditions or

circumstances relevant to the operation of the day care facility or day care system, including references and other information about the character and quality of the personnel of the facility or the system.

SECTION 10. Any final decision of the Department made by a hearing examiner after a hearing, or by the Director after an informal meeting and review of the available evidence, may be appealed by a party to the hearing or the informal meeting to the _____ Court for review [by commencement of a civil action] within _____ days after the mailing to the party of the notice of the decision. The review shall not consist of a trial *de novo*. The findings of the hearing examiner or the Director as to any fact, if supported by substantial evidence, shall be conclusive. The Court shall have power to enter judgment upon the pleadings and a certified transcript of the record which shall include the evidence upon which the findings and decision appealed are based.

SECTION 11. The Department shall offer consultation through employed staff or other qualified persons to assist a potential applicant, applicants, licensees and approved operators in meeting and maintaining requirements for licensing and approval and to help them otherwise to achieve programs of excellence related to the care of children served.

SECTION 12. A State Advisory Board on day care licensing is hereby established. It shall consist of _____ members appointed by the Governor, in accordance with the following:

a) At least 25% of the members appointed shall be parents of children receiving day care services at the time of appointment who are broadly representative of all such parents in the State. They shall be appointed from a list which has been compiled and submitted to the Governor by the Department. The list shall contain a number of names equal to twice the number of parent vacancies plus one.

b) Approximately 1/2 of the remainder of the members appointed shall be representatives of licensees and approved operators. They shall be appointed from a list compiled and submitted to the Governor by the Department, which shall consist of the names of persons who own, operate, administer, or serve on the staff or governing board of day care facilities and day care systems. The list shall contain a number of names equal to twice the number of vacant positions in this category plus one.

c) The remainder of the members appointed shall be specialists in the field of child development. They shall be appointed from a list compiled and submitted to the Governor by the Department, which shall consist of the names of persons who have special qualifications, either by training or experience, in the field of child development. The list shall contain a number of names equal to twice the number of vacant positions in this category plus one.

d) Members shall serve without pay, but shall be entitled to reimbursement for the reasonable expenses of attending meetings, and a per diem allowance of $_____ for each day the board is in session.

e) Members shall serve for a term of three years from their appointment. Those appointed to fill vacancies created for any reason shall serve only the unexpired portion of the term unless reappointed thereafter. Notwithstanding the foregoing, approximately one-third of the initial appointees shall serve for a one year period and approximately one third shall serve for a two year period; the approximately two thirds of the members whose initial terms shall be so shortened shall be chosen by casting lots among all the appointees. No board member shall be permitted to succeed himself after serving a full three year term of office.

SECTION 13. The State Advisory Board on day care licensing shall:

a) Review rules and regulations proposed by the Department and make recommendations thereon to the Director.

b) Make proposals for the improvement of day care licensing by proposing legislation or rules and regulations to the Department.

c) Advise the Department on matters of licensing policy, planning and priorities.

B. PROGRAM AND STAFFING REQUIREMENTS

A. Facility Administration Requirements

1. **REGULATION**: A day care facility shall have written policies covering the following areas: The type of service to be offered to children served; provision which can be made for special needs of individual children; admission requirements and enrollment procedures; fees and the plan for payment; insurance coverage; regulations concerning personal belongings brought to the facility; transportation arrangements; parental* permission for trips and related activities outside the day care facility.

   COMPLIANCE REQUIREMENT: Written policies covering the itemized areas are available, are understood by each caregiver within the program, and are discussed with the parents at the time of enrollment of a child.

2. **REGULATION: The name, address and telephone number of the person(s) with the legal responsibility and the administrative authority for the day care facility must be made known to the licensing authority and parents of children enrolled in the facility.**

   COMPLIANCE REQUIREMENTS: The licensing agency and the parents of children enrolled in the facility are supplied with:

   a. The name, address and telephone number of the person(s) with the legal responsibility for the day care facility.

   b. The name, address, and telephone number of the persons having specific authority and responsibility for overall administration and the quality of services offered.

3. **REGULATION: A day care facility must notify parents and the licensing agency of significant changes in the services offered by the facility.**

   COMPLIANCE REQUIREMENTS: The person(s) legally responsible for the facility must show evidence of written notification to the parent(s) and the licensing agency if significant changes are effected in the services offered by the facility.

4. **REGULATION: Information pertaining to an individual child shall not be disclosed to persons other than the facility staff unless the parent(s) of the child has granted written permission or in an emergency.**

   COMPLIANCE REQUIREMENTS: The facility has release of informaton forms available, and the parent(s) have received written notification of the facility's policy regarding disclosure of information.

5. **REGULATION: Admission procedures must provide the caregiver with sufficient information and instruction from the parent(s) to enable the caregiver to make decisions or act in behalf of the child.**

   COMPLIANCE REQUIREMENTS: Prior to admission of a child, the caregiver obtains necessary information in writing from the child's parents. Records shall be maintained and updated as appropriate. Such records shall cover:

   a. The child's full legal name, birth date, current address, and his preferred name(s).

   b. The name and address of the parent(s), legally responsible for the child.

*Note: The term parent or parental refers to the child's natural parent, guardian, or other legally responsible person or organization.

c. Telephone numbers or instructions as to how the parent(s) may be reached during the hours the child is in the day care facility.

d. Names, addresses, and telephone numbers of person(s) who can assume responsibility for the child if for some reason the parent(s) cannot be reached immediately, in an emergency.

e. Names and addresses of persons authorized to take the child from day care facility.

f. Health information concerning the child, as required by A.1 and A.2 of the health and sanitation requirements.

6. **REGULATION: The admission policies and procedures of a day care facility must be nondiscriminatory in regard to race, color, creed, religion, sex, national origin, or marital status or age of parents.**

Compliance Requirements: The written admission policies include a statement that the facility is operated on a nondiscriminatory basis, and the practice of this policy is demonstrated through according equal treatment in regard to race, color, creed, religion, sex, national origin or marital status or age of parents.

7. **REGULATION: When transportation is provided by a day care facility, children must be protected by adequate staff supervision, safety precautions, and liability and medical insurance.**

Compliance Requirements:

a. A sufficient number of adults is available to assure the safety of the children while enroute. For children age 3 through 6, an attendant in addition to the driver is present if more than 10 children are in one vehicle; two attendants are present for more than 20 children, and three attendants for more than 40 children. For children age 0 through 35 months, an attendant in addition to the driver is present if more than 2 children are present in one vehicle; two attendants are present if 7 or more children are present in one vehicle; and a supervision ratio of one adult (including driver) to three children is maintained for larger numbers. No child is left unattended in a vehicle.

b. A suitable infant restraint or seat belt is available for each child and is used whenever the vehicle is in motion.

c. Children are protected by liability and medical insurance.

d. Children are instructed in safe transportation conduct as appropriate for their age and stage of development.

e. The vehicle and driver are in compliance with all relevant state and local laws.

B. Program Requirements

1. **REGULATION: The program conducted in a day care facility shall provide:**

- **Experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being.**
- **Both active and passive learning experiences which promote the development of skills, social competence, self esteem and positive self identity.**
- **Learning experiences conducted in consultation with parents in order to ensure harmony with the life style and cultural background of the children.**

Compliance Requirements:

a. Program operation reflects an on-going process of parent-staff cooperation in development and modification of program goals.

b. Each child is recognized as an individual and his choice of activities, personal privacy, and background are respected.

c. The program includes first hand experiences for children to learn about the world in which they live; opportunities are provided for field trip visits to places of interest in the community.

d. Learning experiences regarding the value of food in relation to growth and development is provided for children as appropriate to their ages.

e. Opportunities are provided for individual self-expression in conversation, imaginative play and creative expression along with opportunities for running, climbing and other vigorous physical activities.

f. The children's behavior is enhanced by positive guidance, re-direction, and the setting of clearcut limits which foster the child's own ability to be self-disciplined. Caregivers do not use spanking or other forms of corporal punishment or any other technique which is humiliating, shaming, frightening, or otherwise damaging to children. Punishment is not associated with food, rest, toilet training or isolation for illness.

g. There are opportunities for the child to participate in such activities as preparing for meals, taking out or putting away materials, caring for his own clothing, bedding, etc.

h. A variety of games, toys, books, crafts, and other activities materials are provided to enhance the child's intellectual and social development and to broaden his life experiences.

2. **REGULATION: The program provides experiences in harmony with the life style and cultural background of the children.**

Compliance Requirements:

a. The cultural diversity of the children is reflected in the program through incorporation of their language, food, celebration, and life styles, where appropriate.

b. Whenever possible, there are arrangements made to bring in persons from the child's family or his cultural community to conduct activities with the children.

3. **REGULATION: A daily schedule must be established for each group of children in care which will:**

- **Provide regularity of program activities with sufficient flexibility to respond to the needs of individual children.**
- **Provide a balance of quiet and active, group and individual activities.**

Compliance Requirements:

a. Each caregiver in charge of a group of children generally follows a written schedule of daily activities which includes time for meals, snacks, sleep, toileting, and indoor/outdoor play.

b. The schedule is followed without rigidity in order to respond to individual needs of children.

c. Each facility includes a designated area where a child can sit quietly or lie down to rest. A nap period is provided for children who need it, and for children unable to sleep, time and space for

rest and quiet play are available.

4. **REGULATION: A day care facility must have sufficient indoor and outdoor space and equipment in relationship to the number and ages of children in care to accommodate the physical and other developmental needs of children served.**

   Compliance Requirements:

   a. There is at least 35 square feet of indoor space per child available for the care of children (i.e., exclusive of bathrooms, halls, kitchen and storage places) or

   b. Limited indoor space is offset by outdoor space where shelter and climate permit reliable use of such space for activities normally conducted indoors.

   c. There is at least 75 square feet per child of outdoor play space. Where such space is not available at the facility, parks or other outdoor facilities that are easily accessible may be utilized.

5. **REGULATION: The amount and variety of materials and equipment available, and its arrangement and use, must be appropriate to the developmental needs of the children in care.**

   Compliance Requirements:

   a. The quantity of materials and equipment is sufficient to avoid excessive competition and long waits.

   b. Materials and equipment are of sufficient quantity to provide for a variety of experiences and appeal to the individual interests of the children in care.

   c. Protected areas are provided, free of traffic by children and adults, where equipment and materials can be used with minimal interference or interruption.

   d. Materials are stored in an orderly way, are attractive and accessible to children, and are arranged so that children may select, remove, and replace them either independently or with assistance.

   e. Furniture is durable and safe, and is child size or appropriately adapted for children's use.

6. **REGULATION: A day care facility must have sufficient space and appropriate furniture and equipment to provide for support functions necessary to the program and to provide for the reasonable comfort and convenience of staff and parents.**

   Compliance Requirement:

   a. The facility has appropriate storage and work areas adjacent to the area of use, to accommodate the following functions, if these are conducted on the premises:

      1. Administrative office functions, record storage, meeting space for staff or for parent conferences offering privacy of conversation.

      2. Food preparation and serving.

      3. Custodial services.

      4. Laundry.

      5. Rest area for staff relief periods.

      6. Reserve or inactive storage of program materials.

b. A separate staff bathroom is provided or privacy is available through a locking door in a single toilet bathroom.

7. **REGULATION: A day care facility serving children 0 to 35 months must provide an environment which protects the children from physical harm but is not so restrictive as to inhibit physical, intellectual, emotional, and social development.**

Compliance Requirements:

a. There is an indoor area protected from general walkways within the facility where crawling children can be on the floor at least part of the day to explore.

b. Children are taken out-of-doors or to other areas within the facility for a part of each day to provide some change of physical surroundings, and social interaction opportunities.

c. Children are not routinely left in a crib without direct adult contact for long periods of time while awake (typically not more than one hour).

d. Low chairs and tables or infant seats with trays are provided for table play and meal time for children no longer being held for feeding. High chairs, if used, must have a wide base and safety strap.

e. Toys and materials available for the infant's use provide many opportunities for the child to learn through seeing, feeling, hearing, smelling, and tasting.

f. Comfortable chairs are provided for staff to use when feeding, holding, or playing with the children.

g. There is frequent verbal communication between caregivers and children.

h. Children are provided physical stimulation through being held, rocked and played with, as well as through being dressed, bathed and carried; they are allowed some opportunities during the day when they can explore and learn on their own.

i. Sleeping equipment provided includes cribs for infants who have not yet begun to climb, and low cots provided for other children. In a facility with limited space in which cribs and other bulky infant equipment would leave too little area for floor play, infants may sleep on individual floor pads, provided that the floors are clean, warm and free from drafts and additional staff attention is given to the children during sleeping periods. There must be sufficient passageways to enable staff to have ready access to children.

8. **REGULATION: A day care facility shall supplement, augment, and reinforce the child's activities at home and, where applicable, at school.**

Compliance Requirements:

a. At the time of enrollment and thereafter as the need arises, the caregiver discusses with each parent the child's habits, activities and schedules while at home and in school and his parents' special concerns about his past and future behavior and development. His schedule and activities in day care are designed, to the extent possible, to complement and supplement his experiences at home and in school.

b. Parents are encouraged to visit the facility, observe, and participate in the care of their children. The caregiver is responsible for contacting parents to exchange information concerning the child.

c. Caregivers' and operators' concerns about the health, development or behavior of any child are communicated to the parent promptly and directly.

d. Each child's cultural and ethnic background and primary language or dialect is respected by his

caregivers. Whenever possible, caregivers are able to speak and understand the primary language of each child.

e. The school is notified by the day care operator or parent of the day care placement of a school age child. Communication between school and caregivers takes place in emergencies and in other instances in which the child's total development can be enhanced by such communication.

9. **REGULATION: A day care facility offering night care must provide program modifications for the special needs of children during the night.**

a. In consultation with parents, special attention is given by the caregiver to providing for a transition into this type of care appropriate to the child's emotional needs.

b. When possible, children are left for care and picked up before and after their normal sleeping period so that there is minimal disturbance of the child during sleep.

c. A selection of toys for quiet activities which can be used with minimal adult supervision is available.

d. Bathing facilities are provided. Comfortable beds, complete bedding and night clothes are available.

e. Sufficient staff are available to assist children during eating and pre-bedtime hours and during the morning period when dressing. During sleeping hours, staff is within listening distance in order to provide for the needs of children and respond to an emergency.

10. **REGULATION: If a facility serves "drop-in" children, the program must reflect the special needs of those children.**

Compliance Requirements:

a. Sufficient personnel are available to effectively handle admission records, irregular check-in and check-out times, explanation of policies including financial arrangements.

b. Children displaying unusual anxiety symptoms are given special consideration.

c. Qualified reserve staff are available in sufficient number to meet peak staff requirements of the facility.

d. Admittance procedures include provision, where necessary, for a period of individual attention to the child to acquaint him with the facility, its equipment, and the people who can assist him.

e. Each such center serving 30 or more children has at least one employee in the facility at least 50% of the time the center is open who meets one of the following qualifications:

1. Bachelor or Associate Arts degree with at least 12 semester hours in child development; child psychology, child health, related education, or directly related field, *or*

2. A high school diploma, or its equivalent, plus at least three years of satisfactory experience in a related educational, early childhood or day care program, *or*

3. Certification as a Child Development Associate or similar status where a local, state or Federal certification program exists.

C. Staffing

1. **A day care facility must have sufficient staff to respond quickly to an active child about to hurt him-**

self or another, and to provide continuous supervision with provision to respond to an emergency requiring temporary absence of the caregiver.

Compliance Requirements:

a. In a family day care home, the operator limits the number of children less than 36 months of age to the number that could be carried in case it was necessary to evacuate the building; the operator arranges the daily schedule so that children are provided with an activity requiring minimal supervision during periods of time when it is necessary for caregivers to be engaged in activities such as bathing or feeding an infant.

b. The operator presents evidence that a plan has been worked out whereby an additional adult could be quickly summoned to be available to assist in an emergency.

c. The facility operator has worked out a plan for evacuation of children in case of fire or other disaster.

d. In a facility where a person is assigned to work alone with a group of children, it is possible to summon another adult without having to leave the group unsupervised.

2. **REGULATION: A day care facility must have sufficient staff to provide for each child's physical care, and to offer individual attention to children as may be needed as well as time to interact with children for the benefit of their social competence, emotional well-being, and intellectual development. The number of staff and their utilization should reflect programmatic requirements, differences in the needs of the children served, and should permit flexible groupings.**

Compliance Requirements:

a. Facilities with 6 or fewer children–One staff person provides care for up to a total of six children, including the caregiver's own children under age 6, with no more than two children under age 2.

b. Facilities for 7 to 13 children–One staff person provides care for up to six children on the same basis as stated in (a.)–Two staff persons provide care for up to a total of 12 children with no more than three children under the age of 2.

c. In a facility serving 13 or more children, a staffing plan is prepared so that ratios of Day Care Staff to children are maintained, as follows:

Children of Age:	Staff:
0 to 2	1 adult to 4 children
2 to 3	1 to 5
3 to 5	1 to 10
5 to 7	1 to 12
7 to 11	1 to 16
12 to 14	1 to 20

The above ratios are to be used in computing the number of staff hours required in a center. For the purpose of such computations the number of children is considered to be the estimated daily attendance records using the monthly, quarterly or seasonal average. Newly opened facilities must schedule staff on the basis of enrollment until average attendance over a two-month period has stabilized. Total staff hours in a center must equal or exceed the sum of the staff hours required for each age group but at no time may there be fewer than 1/2 the staff required by the applicable ratios for children in the facility at that time.

d. Only personnel who spend at least 75% of their time providing direct care for children may be counted in meeting staff/child ratios.

3. **REGULATION: Day care facilities must provide for the supervision of children during periods when**

caregiver attention is diverted from the direct care of children.

Compliance Requirement:

a. Day care facilities must have an appropriate area which permits the convenient visual supervision of children during times when caregivers are engaged in such activities as consultation with parents on operation of the day care home.

4. **REGULATION: Each caregiver must have the skill and competency necessary to contribute to each child's physical, intellectual, personal and social development.**

Compliance Requirements:

a. Each caregiver must be at least 18 years of age and must be able to read and write. (The presence of persons below the age of 18 is encouraged, but such persons may not be counted toward meeting the staff-child ratios.)

b. Each caregiver has the qualification or experience to be able to carry out a program emphasizing child development (as described in Section B of these requirements).

c. Each caregiver must be able to provide evidence that he or she meets the health requirements set forth in Section C.1 of the health and sanitation section.

d. Each caregiver must:

1. Be able to work with children without recourse to physical punishment or psychological abuse.

2. Be able to praise and encourage children and provide them with a variety of learning and social experiences appropriate to the age of the children served.

3. Be able to communicate with parents and children in their own language whenever possible.

4. Be able to recognize and act against hazards to physical safety.

5. Possess the capacity and willingness to increase skills and competence through experience, training, and supervision.

e. Each center enrolling 30 or more children has at least one employee in the facility at least 50% of the time the center is open who meets one of the following qualifications:

1. Bachelor or Associate Arts degree with at least 12 semester hours in child development, child psychology, child health related education, or directly related fields, *or*

2. A high school diploma, or its equivalent, plus at least three years of satisfactory experience in a related educational, early childhood or day care program, *or*

3. Certification as a Child Development Associate or similar status where a local, state or Federal certification program exists.

5. **REGULATION: The operator of a day care facility must have the skills necessary to manage a day care facility, the ability to relate effectively to parents and community and the ability and willingness to provide a child care program which meets the standards set forth in these requirements.**

Compliance Requirements: The operator of a day care facility:

a. Must provide a child care program and facility which meets the standards set forth in these requirements.

b. Must maintain adequate enrollment, attendance, financial, and related records.

c. Must accept responsibility for the screening, scheduling, supervision, and conduct of any staff, volunteers, or others who provide services in the facility.

d. Must endeavor to cooperate with the licensing and other appropriate agencies in all reasonable efforts to improve the quality of care and the competence of caregivers.

e. Is willing to inform parents and other interested persons about the goals, policies, and content of day care program which he or she operates.

f. Has achieved the locally applicable legal age of majority.

D. Parent Participation

REGULATION: A day care facility serving 15 or more children and supported partially or wholly by Federal, State or local government shall comply with applicable requirements for parental involvement in the decision process.

a. Each such day care facility serving 15 or more children shall have a Policy Advisor Council. At least 50% of the members of each Policy Advisory Council must be parents of the children served and must be democratically elected. The parents of the children served shall decide on the total membership and structure of the policy advisory council at each day care facility and where the day care operator has more than one facility.

b. The Policy Advisory Council shall approve project grant applications for Federal operating funds before the day care operator submits the project grant to the administering agency or direct to the Federal government.

c. Policy Advisory Councils may participate meaningfully in every aspect of the day care program, if the policy advisory council desires. The test for meaningful participation is whether the day care operators give serious consideration to the recommendations made by the Policy Advisory Council.

d. The Policy Advisory Council shall periodically review the policies and practices of the day care facility to determine compliance with these requirements. Where discrepancies noted cannot be resolved between the policy advisory council and the operator, the remaining difficulties should be brought to the attention of the administering agency which has the responsibility to investigate the discrepancies. Where the policy advisory council desires to participate in the establishment of a policy, goal or procedure and the operator either refuses this participation or does not give serious consideration to the recommendations of the policy advisory council, the administering agency has responsibility to resolve the differences.

e. Opportunities must be provided parents at times convenient to them to work with the program and, whenever possible, observe their children in the day care facility.

C. HEALTH AND SANITATION REQUIREMENTS

A. **Personal Health of Children**

1. **REGULATION: Evidence of the general state of each child's health, presented by the child's parent upon admission to the day care facility or shortly thereafter, must be maintained by the day care operator.**

   Compliance Requirements:

   a. A written statement from a physician, health agency, or other qualified provider of health service with experience in general child health evaluation attesting that the child is in good health, that any known special conditions are under treatment, that day care does not present problems to the child that day care program would be unable to deal with, is on file in the day care facility. Such a statement would be recent and would include the results of a state approved test for tuberculosis within the prior six months and the results of screening for vision and hearing performed within the prior six months.

   b. When a child is not receiving health care (i.e., when a parent is unable to present evidence of the child's general health), the day care operator, the sponsoring agency, or the health consultant offers assistance to the parents by providing information about and referral to a source of health care for the child.

      EXCEPTION to b. A child under 12 months of age who has not had a physical evaluation between the time of his discharge from the hospital of birth and his entrance into day care shall be referred to an appropriate source of health care for a physical evaluation within two weeks of his admission to day care.

2. **REGULATION: Evidence of immunization appropriate to the child's age as prescribed by health regulations in his locality, presented by the child's parent upon admission to the day care facility, or shortly thereafter, must be maintained by the day care operator.**

   Compliance Requirements:

   a. A record of immunizations signed by a physician or other qualified health service provider is on file in the facility for each child in day care, *or*

   b. Written evidence presented by the parent that such immunizations have been completed (e.g., health record, immunization folder) is on file, *or*

   c. Where an appropriate health source determines that a satisfactory level of immunizations has not been attained, the day care operator offers assistance (i.e., provides information about and referral to available sources of immunization) to the parent in securing the necessary immunizations, unless such immunizations are medically contra-indicated or objectionable on religious grounds.

3. **REGULATION: At least one adult caregiver who has received or is receiving training in observation of symptoms or illness and in elementary principles of first aid shall be on the premises at all times children are present in the facility.**

   Compliance Requirements:

   a. At least one caregiver shall present evidence of having received training or being currently enrolled in a program teaching principles of first aid. A certificate or other evidence from the Red Cross, a community health agency, a local community college, an extension division of a university, a high school adult education program, a source of health consultation or other appropriate community resource shall be evidence of satisfactory compliance.

1. At least one caregiver shall present evidence of having completed training or shall be receiving training in observation of symptoms of illness. A certificate or other evidence from a Red Cross home nursing course, a community health agency, a local community college, an extension division of a university, a high school adult education program, a source of health consultation or other appropriate community resource shall be evidence of satisfactory compliance, *or*

2. In-service training for the day care staff includes discussions of illness and symptom observation and evaluation.

c. A readily understandable chart describing first aid and emergency medical treatment techniques is conspicuously posted in each facility.

4. **REGULATION: All day care programs shall have provisions for health consultation from an appropriate community resource to assist in developing health policies, in keeping them current, and in providing other services as indicated.**

Compliance Requirements:

a. The operator of a day care facility or the administering agency for a network of such facilities must have written evidence that an arrangement has been made with a physician, nurse, or other health source for assistance and consultation, as needed, in such matters as accidents, symptoms of illness, staff member health policies and other health matters. The evidence of this arrangement shall include the signature of the health source attesting to participation in a review of health policies and practices of the facility or administering agency and to availability for consultation in the event of illness or accident.

b. Written health policies appropriate to the age range of children served are developed for each day care facility or are available from a responsible community or state source such as the Health Department, Pediatric Society, Neighborhood Health Center, Medical School, or similar health professionals. There shall be evidence that the views of parents were considered in the development of such policies.

c. Health policies are reviewed every three years.

5. **REGULATION: There shall be dental health programs designed to effect good oral hygiene, education and practice.**

Compliance Requirements:

a. The health consultation resource which the day care facility utilizes has dental health consultation available and uses it on a regular basis.

b. Children are provided appropriate opportunities for supervised practice of good oral hygiene.

c. For day care facilities serving 7 or more children, oral hygiene concepts are a part of in-service training programs.

6. **REGULATION: A record shall be kept on each child in the program which includes pertinent information about his health status and any special needs he may have.**

Compliance Requirements:

a. The health record of each child contains:

1. the statement of the physician or other health source obtained upon the child's admission to the facility

2. evidence of immunization appropriate to the child's age and health status

3. notes regarding discussions with parents about health problems indicating that the parent has been made aware of any health problem observed by the caregiver and that an appropriate plan has been developed to resolve the health problem noted.

4. any pertinent health information obtained from parents and/or health sources.

7. **REGULATION: When health policies of the facility allow ill children to be admitted or to remain in the day care facility, medical consultation shall be available regarding special care and medication. Both staff and parents must be familiar with special policies relevant to ill children.**

Compliance Requirements:

a. Special policies regarding illness are explained to the parent at the time of enrollment of the child.

b. There is provision for communication between the child's regular source of health care and the medical consultant to the day care setting, to preserve continuity and consistency of care.

c. The day care facility has in writing, the name, address, and telephone number of a physician or health resource that can be called in case of emergency and written permission of the parent to call upon the stated physician or health resource or another responsible source of care if the parent cannot be reached. There is evidence that the physician or health resource has responded when called.

8. **REGULATION: A source of emergency health services shall be readily available to each facility.**

Compliance Requirements:

a. There is a planned source of readily available emergency medical care–a hospital emergency room, clinic or other constantly staffed facility, physician or other health professional known to caregivers and acceptable to parents with written parental agreement for its use as in 7c.

b. When a staff member accompanies a child to the source of emergency care, the staff member remains with the child until the parent or his designee assumes the responsibility for the child's care. Arrangements have been made for substitute or alternate staff so that the supervision of the other children in the program is not compromised.

9. **REGULATION: A day care facility which provides care for infants and toddlers shall discuss with parents at the time of enrollment its health policies including the following aspects: type of feeding, provision for adequate change of clothing, care of diapers, provision of a clean area for diaper changing, provision for bathing of infants when soiled, the type of bed to be used and care of bed linen, care and cleaning of training chairs, and special safety precautions.**

Compliance Requirement:

a. Compliance with 4.b.

b. Policies covering the above items are discussed with parents and carried out by each caregiver in the program.

10. **REGULATION: When children with special needs are admitted to a day care facility there are appropriate provisions to meet those needs.**

Compliance Requirements:

a. When children with special needs are admitted, the responsible individual in the day care facility

consults with the child's parents, the child's source of professional health care or, where appropriate, other health consultants.

b. The appropriate staff of the facility receives instruction related to the nature of the disability, the child's potential for growth and development, and his relationship to the facility program.

c. Where the nature of the special need or the number of children with special needs necessitates added care, sufficient staff and equipment is supplied to cover these needs.

B. Nutrition

1. **REGULATION: All facilities shall provide meals and snacks of a quantity and quality to supplement food served at home so that the daily nutritional needs of the child are met. Cultural and ethnic foods appropriate to the children in the program and locality shall be part of the meal planning.**

Compliance Requirements:

a. All day care centers shall provide for nutritional consultation from an appropriate community resource.

b. To the extent possible, information provided by parents concerning the child's eating habits, food preferences or special needs should be considered in day care feeding schedules and menus.

c. Children who are in the day care facility for 4 hours or more are served a quantity of food which will supply at least one-third of the National Research Council's Recommended Dietary Allowances. Children in the day care program for 8 hours receive a quantity of food that will supply approximately one-half to two-thirds of the Recommended Dietary Allowances. Children receiving care for periods considerably longer than 8 hours receive a larger proportion of the Recommended Dietary Allowances in the center.

d. Food is not used as a punishment or reward. Children are encouraged but not forced to eat.

e. Infants are fed or supervised individually and their diet and pattern of feeding are appropriate to their special developmental needs. Infants not able to hold their own bottles are held, bottles are not propped.

f. In centers for 13 or more children there is an annual evaluation of the food service by a nutrition consultant.

2. **REGULATION: Drinking water shall be freely available to children of all ages.**

Compliance Requirements:

a. The program has potable water available to all children, and the staff understands the necessity of this provision. Water should be offered at intervals to infants and toddlers.

C. Mental Health of Children

1. **REGULATION: Mental health concepts, as an integral aspect of total child development, are included in the day care program and in staff training when appropriate resources are available.**

Compliance Requirements:

a. Caregivers understand the importance of enhancing mental health and development of the child as evidenced by observed caregiver-child interaction or participation in in-service or other types of training activities.

b. There is evidence of adequate day-to-day communication between child care staff and parents.

c. Sources of professional consultation in mental health are made known to the family and caregivers upon their request or upon the recommendation of the operator and/or the health consultant.

2. **REGULATION: The program conducted in a day care facility shall provide:**

- **Experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being.**
- **Both active and passive learning experiences which promote the development of skills, social competence, self-esteem and positive self-identity.**
- **Learning experiences conducted in consultation with parents in order to ensure harmony with the life style and cultural background of the children.**

Compliance Requirements:

a. Program operation reflects an on-going process of parent-staff cooperation in development and modification of program goals.

b. Each child is recognized as an individual and his choice of activities, personal privacy, and background are respected.

c. Opportunities are provided for individual self-expression in conversation, imaginative play and creative expression along with opportunities for running, climbing and other vigorous physical activities.

d. The children's behavior is enhanced by positive guidance, re-direction, and the setting of clear-cut limits which foster the child's own ability to be self-disciplined. Caregivers do not use spanking or other forms of corporal punishment or any other technique which is humiliating, shaming, frightening, or otherwise damaging to children. Punishment is not associated with food, rest, toilet training or isolation for illness.

e. There are opportunities for the child to participate in such activities as preparing for meals, taking out or putting away materials, caring for his own clothing, bedding, etc.

f. Each child's cultural and ethnic background and primary language or dialect is respected by his caregivers. Whenever possible, caregivers are able to speak and understand the primary language of each child. Where appropriate, bilingual programs are developed.

g. There are opportunities for the child to explore friendships and quarrels with other children in the facility with a minimum of adult interaction.

D. Personal Health of Staff

1. **REGULATION: Evidence that staff are free from health problems which would have a harmful effect on the children or would interfere with effective functioning shall be maintained at the day care facility.**

Compliance Requirements:

a. Written evidence is on file at the facility regarding a pre-employment physical examination of each adult employed in the facility; and

b. Written evidence is on file in the facility attesting that each adult is free from communicable tuberculosis as a result of a negative tuberculin test or a satisfactory Chest X-Ray taken within 6 months of beginning child caregiving. Such tests should be repeated annually.

c. Each caregiver with an identified health problem must obtain a written statement from a physician that he or she has sufficiently good health to care for young children.

d. There shall be evidence of a periodic review (at least annually) of the health status of each adult in the facility by a responsible health source (e.g., personal physician, health consultant or community health agency). Such review should include job performance as related to health, sick leave, absence due to accidents, etc.

2. **REGULATION: There shall be provision for substitution for staff who are too ill to function effectively or who present a serious health hazard to others in the facility.**

Compliance Requirements:

a. The operator of a day care facility has substitute care arrangements that are satisfactory to both the day care personnel and the parents.

b. In a day care facility serving 7 or more children there is a provision for regular paid substitutes and a plan for coverage at times when staff members are ill and unable to be on duty.

c. Health policies of facilities serving 7 or more children include an allowance for personal leave to attend to employee health needs which require absence from the program.

3. **REGULATION: The health practices of all staff when in the facility shall be appropriate to protect the health of the children.**

Compliance Requirement:

a. Personal health practices of staff minimize transmission of infecting agents and protect the health of children.

4. **REGULATION: All volunteers shall be subject to the same health requirements as are applicable to paid staff members.**

Compliance Requirements:

Same as for D.1., listed above.

5. **REGULATION: No individual who has been convicted of child abuse or neglect, or sexual abuse, or is awaiting trial on such charges, shall be employed or retained in the day care facility.**

Compliance Requirements:

No person employed in the day care facility has a police record of such conviction, or is awaiting trial on such charges.

E. Environmental Sanitation and Safety

1. **REGULATION: Each day care facility shall have a disaster plan to provide for the safety of the children in case of emergency.**

Compliance Requirements:

a. A disaster plan has been developed with the aid of a fire inspector, the facility's health consultant, the Red Cross, or other appropriate community resources; has been put in writing; and is practiced at regular intervals; and

b. The plan is made known to parents at the time of the child's admission.

2. **REGULATION: Operators must ensure that the day care program and premises minimize the risk of accidental injury.**

Note: Further requirements related to health and accident hazards are included in the first and safety section of this Code.

Compliance Requirements:

a. Day care activities and premises do not expose children to situations which may be hazardous to the particular age or capacity of the child.

b. Each caregiver helps children to increase their own awareness of safety practices and accident hazards and to learn how to avoid such hazards.

c. For centers serving 13 or more children administrative and caregiver staff have developed and are familiar with accident prevention practices and policies appropriate to the program. Such practices and polices are reviewed annually.

3. **REGULATION: The water supply shall be from an approved source.**

Compliance Requirements:

a. Water from a municipal source is safe, potable, and adequate in supply, and the plumbing is installed and maintained in an approved manner.

b. Water from a private water supply, meeting standards of the health authority, is safe, potable, and adequate in supply, and the plumbing is installed and maintained in an approved manner.

4. **REGULATION: If running water is not available in the day care facility the water shall originate from an approved source and shall be transported, stored, and dispensed in a manner to provide protection from contamination.**

Compliance Requirements:

a. The original source of water is an approved, safe, potable supply.

b. Storage and transportation containers are kept covered and water is transferred to use containers in a sanitary manner.

c. The transfer container is cleaned and sanitized before each filling, or when it becomes contaminated. All water served to children must be clean and suitable for drinking.

d. Where transfer containers are utilized, the water is changed daily to assure freshness. Commercially bottled water is exempt from this provision.

5. **REGULATION: Toilet and lavatory facilities shall be provided of a type determined by the availability of water under pressure. Approved facilities (water or non-water carriage) shall be provided for disposal of sewage and other liquid wastes.**

Compliance Requirements:

a. Where a public sewer is available, all plumbing fixtures and building sewers are connected thereto.

b. Where a public sewer is not available, a private sewage disposal system of an approved type is installed and connected to all plumbing fixtures and building sewers.

c. Where water carried sewage disposal means are not available or feasible, sewage and other liquid wastes are disposed of in an approved manner.

d. Water flush toilets on the order of 1:15 are provided where water carried sewage disposal is available. Indoor toilets are located in rooms separate from those used for cooking, sleeping, or eating.

e. Where water carried sewage disposal is not available, privies are used in accordance with local sanitary requirements and designed with step stools, or with risers and holes sized to the age group.

f. Training chairs are provided for use by children who require them. Training "potties" are emptied promptly and sanitized after use.

g. Lavatories or hand washing facilities are provided in quantities commensurate with toilet facilities.

1. In family day care homes children are assisted in washing to prevent accidental scalding.

2. In a center facility hot water temperatures do not exceed 120 degrees Fahrenheit at outlets accessible to children.

h. Safe step stools are provided to allow standard sized toilets and lavatories to be used.

6. **REGULATION: If laundry facilities are included, they shall be installed and used in such a manner as to safeguard the health of the children.**

Compliance Requirements:

a. Laundry facilities are not used during the time the children are in care unless they are inaccessible to the children.

b. Day care facilities serving 7 or more children shall not have laundry facilities located in food preparation areas.

7. **REGULATION: Food preparation shall be carried on in a kitchen with proper equipment and clean-up facilities appropriate to the number of children in care.**

Compliance Requirements:

a. All dishwashing is performed in a sanitary manner and in keeping with the general requirements listed herein.

b. In a day care facility caring for less than 13 children, a family kitchen in good repair is available, separate from other rooms. A domestic dishwasher is acceptable, but if it is not available, the dishes must be washed and rinsed in a sanitary manner.

c. In a day care facility caring for 13 or more children, where food is prepared on the premises, there is adequate sized equipment for the size of the program. A mechanical dishwasher is required, except that a three compartment sink may be used where the water supply is not sufficient for installation and use of a mechanical dishwasher.

d. In a day care facility without kitchen facilities, the foods and dishes are transported by acceptable means from an approved food preparation source. Heated food or perishables requiring refrigeration are served promptly or refrigerated.

e. When single service utensils are used, they are stored and handled in a sanitary manner and are discarded after a single use.

8. **REGULATION: Food shall be from approved sources, and shall be transported, stored, prepared and served in a sanitary manner.**

Compliance Requirements:

a. All food must come from approved sources and be protected from contamination during storage, preparation and service.

b. Policies reflect the accepted practices of local sanitary codes and are adapted to fit the needs of the program.

c. Pre-packaged, pre-sterilized formula is used for each infant feeding, and any excess is discarded. If a special formula is required, arrangements for its preparation and use shall be developed with the parent.

9. **REGULATION: Cleaning of the premises and equipment shall be performed as needed to protect the health of the children and staff.**

Compliance Requirements:

a. The day care facility has necessary cleaning and maintenance equipment with storage facilities, and appropriate procedures for regular cleaning and routine maintenance are evidenced by a clean establishment maintained in good repair.

b. Toys, table tops, furniture and other similar equipment used by children are washed when they become sticky and gummy, or contaminated with matter such as food, body secretions or excrement. Cleaning with soap and water followed by adequate drying is sufficient.

c. Cleaning equipment, cleaning agents, aerosol cans, and other hazardous chemical agents, are stored in space designated solely for this purpose and inaccessible to children.

d. Dirty linen storage is separate from storage of clean linen, food, and other supplies.

e. Personal use items, consisting of combs, tooth brushes, towels, and other similar items, are not stored or used in common.

10. **REGULATION: If swimming and wading pools and/or areas are used by the facility, they shall be constructed, maintained, and used in such a manner as to safeguard the lives and health of the children.**

Compliance Requirements:

a. A qualified life guard is on duty at all times when swimming pools or areas are in use.

b. Swimming and wading pools and/or areas used are fenced in accordance with accepted safety practices to prevent accidental or chance access by children or others not entitled to use the pool or water area.

c. Wading pools are used only when an adult staff member with knowledge of water safety practices is present.

d. The number and ages of children using a swimming or wading pool or water area is limited at any one time to allow appropriate supervision by the adult staff member or life guard.

e. The water in the pool is treated, cleaned, and maintained and other water areas are used in accordance with sound health practices and regulations, as determined by the appropriate health authority.

f. Legible safety rules for the use of pools and water areas are posed in a conspicuous location. All caregivers are familiar with the safety rules.

D. FIRE AND SAFETY REQUIREMENTS

GENERAL

Nothing in these regulations shall be construed as preventing the use of any material, method of construction system or appliance which can be shown by the submission of evidence to the authority having jurisdiction to provide an equivalent degree of quality, strength, effectiveness, fire-resistance, durability and safety. In addition, the authority having jurisdiction may waive specific provisions of these regulations which if rigidly applied, would result in unreasonable hardship, but only if such waiver will not adversely affect the safety of the occupants.

CHILD DAY CARE CENTERS

A. Application

A.1 This section establishes life safety requirements for Child Day Care Centers housing 13 or more children. A "day care center" is:

a. A place which receives children for care, maintenance, and supervision in a setting other than a dwelling unit on a 24 hour a day basis or less.

b. Any place which receives more than twelve children for care, maintenance, and supervision on a 24 hour a day basis or less.

A.2 The requirements apply to centers housing children under 3 years of age, from 3 through 5 years of age, and for children 6 years of age and older. The text principally applies to centers for children under 3 years of age and variances for centers housing children of the other age groups are indicated. Where a facility houses more than one age group, the requirements for the younger age group shall apply, unless the area housing the younger children is maintained as a separate fire area.

A.3 Centers housing children 6 years of age and older shall conform to the requirements of Chapter 9, National Fire Protection Association (NFPA) No. 101, Educational Occupancies, except as noted herein.

A.4 Where centers are located in a building containing mixed or hazardous occupancy the separation requirements of the locally applicable building code or, if none exists, a nationally recognized model code, shall be satisfied.

B. Occupant Load

B.1 The occupant load for which means of egress shall be provided for any floor shall be the maximum number of persons intended to occupy that floor but not less than 1 person for each 35 square feet of net floor area used by the children.

C. Exit Details

C.1 Each floor occupied by children shall have not less than two remote exits, all such exits shall lead directly, or through an enclosed fire resistive stairway to the outside.

C.2 The story below the floor of exit discharge may be used in buildings of protected wood frame or protected ordinary construction if the following conditions are met.

a. For up to 30 children there shall be two remote exits. One exit shall have the exit door approximately

at ground level and the vertical travel to ground shall not exceed 8 feet. There shall be no unprotected opening onto the stair or ramp.

b. For over 30 children a minimum of two exits shall be provided directly to the exterior with one of the two exiting at ground level.

Exception #1: The exit directly to ground level is not required if the exits are protected in accordance with 5-114 of NFPA 101 except that there shall be no openings into the exit other than for ingress and egress. Products of combustion detectors, other than heat, shall be provided in that story and the story of discharge.

Exception #2: The exit directly to ground level is not required if one exit complies with Exception 1 and sprinklers are used in that story and the story of exit discharge.

D. Access to Exits

D.1 Travel distance (a) between any room door intended as exit access and an exit shall not exceed 100 feet; (b) between any point in a room and an exit shall not exceed 150 feet; (c) between any point in a sleeping room or suite and an exit access door of that room or suite shall not exceed 50 feet. The travel distance in (a) and (b) above may be increased by 50 feet in buildings completely equipped with an automatic fire extinguishing system. Travel distance shall be measured in accordance with 5-119 of NFPA 101.

D.2 The travel distance to exits in open plan centers for children 3 years of age and older shall be in accordance with 9-213 of NFPA 101 for open plan schools.

E. Doors

E.1 Doors in means of egress shall swing in the direction of exit travel and shall meet the requirements of Section 9-132 or 9-133 of NFPA 101.

Exception: Doors from an apartment to an exit access in apartment buildings.

F. Stairs

F.1 Exit stairs shall be enclosed in accordance with 5-114 of NFPA 101.

G. Areas of Refuge

G.1 In high rise buildings (buildings over 5 stories above ground level), areas of refuge, either by smoke proof towers or horizontal exits, shall be provided for occupants of Child Day Care Centers.

H. Emergency Lighting

H.1 Means of egress in each day care center shall be provided with Type 1 emergency lighting, as defined in Section 5-1022 of NFPA 101.

I. Subdivision into Compartments

I.1 Sleeping areas in centers housing children under 3 years of age shall be compartmented with partitions having a 3/4 hour fire resistance rating so there are not more than 6 children in each compartment.

I.2 Compartment doors shall be not less than 3 feet wide in new construction and not less than 32 inches wide in existing buildings. Door assemblies shall have a 20 minute fire resistance rating and shall be equipped with a self closing device, a latch and an automatic hold open device as specified in 10-1244.

J. Centers in Apartment Buildings

J.1 If the two means of egress from the center discharge into the same corridor, as in an apartment building, the means of egress shall be separated in the corridor by a smoke stop partition having not less than a one hour fire resistance rating.

J.2 The door in the smoke stop partition shall be not less than 36 inches wide. The door assembly shall have a fire resistance rating of 20 minutes and shall be equipped with a self closing device, a latch and an automatic hold open device as specified in 10-1244 of NFPA 101.

Exception: Existing doors not less than 32 inches wide may be accepted if the door meets the other requirements.

K. Minimum Construction Standards

K.1 Centers shall be located up to the maximum height indicated in the following building construction types:

		Number of Stories (Stories are counted starting at floor of exit discharge)			
		1	2	3	4
Fire Resistive and Protected Noncombustible	0 to 3	X	X	X	X
	3 thru 5	X	X	X	X
	6 and older	X	X	X	X
Protected Wood Frame and Protected Ordinary	0 to 3	X	See Note 1	Not Permitted	
	3 thru 5	X	X	See Note 1	
	6 and older	X	X	See Note 1	
Heavy Timber	0 to 3	X	See Note 1		
	3 thru 5	X	See Note 1		
	6 and older	X	See Note 1		
Unprotected Noncombustible	0 to 3	X	See Note 1		
	3 thru 5	X	See Note 1		
	6 and older	X	See Note 1		
Unprotected Wood Frame and Unprotected Ordinary	0 to 3	Not Permitted			
	3 thru 5	See Note 2			
	6 and older	See Note 2			

X = Permitted.

Note 1 – Permitted if entire building is equipped with an automatic fire extinguishing system.

Note 2 – May be permitted for children 3 years of age and older if the children are limited to the first floor and number of children is limited to 50 and there are two remote exits; or if they are limited to the first floor and the number of children is limited to 100 and each room has an exit directly to the outside.

L. Protection of Vertical Openings

L.1 Any vertical opening in centers shall be enclosed and protected in accordance with Section 6-1 of NFPA 101.

M. Interior Finish

M.1 In centers for children 5 years old or less interior finish for all walls and ceilings shall be Class A or Class B in accordance with Section 6-2 of NFPA 101, and floors shall be Class A, B or C. In new construction, interior finish in means of egress shall be Class A, and floors in means of egress shall be Class A or Class B.

Exception: Tongue and groove wood flooring over 1/2 inch thick may be permitted.

M.2 In centers for children 6 years of age or older, interior finish for means of egress shall be Class A or Class B and for individual rooms Class A, B or C. Floors shall be Class A, B or C.

M.3 Decorations and furnishings shall be in accordance with Sections 17-415 and 17-416 of NFPA 101. Child prepared art work and teaching materials may be attached directly to the walls and shall not exceed 20 percent of the wall area.

N. Extinguishment and Alarm Systems

N.1 Fire detectors which respond to products of combustion other than heat shall be installed on the ceiling of each story in front of the doors to the stairways and at no greater than 30 feet spacing in the corridors of all floors containing the center. Detectors shall also be installed in lounges and recreation areas in centers. The detectors may be single station units with an integral alarm having a decibel rating of at least 85.

Exceptions:

1. Detectors are not required in fully automatic sprinklered buildings.

2. Detectors are not required in centers housing children 6 years of age and older, if no sleeping facilities are provided.

N.2 There shall be a manually operated fire alarm system in each floor of the center. In centers with more than 100 children, the fire alarm system shall be installed to transmit an alarm to the fire department that is legally committed to serve the area in which the center is located by the most direct and reliable method approved by local regulations.

N.3 Portable fire extinguishers suitable for Class B Fires shall be installed in kitchens and cooking areas and extinguishers suitable for Class A Fires installed throughout the remainder of the center (see 6-422 of NFPA 101).

N.4 Standpipes for fire department use shall be installed in all buildings of 6 stories or more housing child day care centers unless the local code has a more stringent requirement.

O. Hazard Areas

O.1 An area used for general storage, boiler or furnace rooms, fuel storage, janitors closets, maintenance shops including woodworking and painting areas, laundries and kitchens, shall be separated from other parts of the building with construction having not less than a 1-hour fire resistance rating and all openings shall be protected with self-closing fire doors, or such area shall be provided with automatic fire extinguishing protection. Where the hazard is high, both the fire-resistive separation and automatic fire extinguishing shall be provided within the use area.

P. Center Service Equipment

P.1 Air Conditioning, Ventilating, Heating, Cooking, and Other Service Equipment shall be in accordance with Chapter 7 of NFPA 101.

P.2 Electrical wiring in new construction shall be installed in accordance with the National Electric Code.

P.3 In existing buildings, the electrical wiring shall be sized to provide for the load. Receptacles and outlets serviced by extension cord type wiring are prohibited. Electrical appliances shall be grounded.

P.4 Special protective receptacle covers shall be installed in all areas occupied by children in centers for children under 5 years of age.

GROUP DAY CARE HOMES

A. Application

A.1 This section establishes life safety requirements for Group Day Care Homes. A "group day care home" is a place (generally a dwelling unit) which receives for care, maintenance, and supervision seven through twelve children for less than twenty-four hours a day unattended by a parent or legal guardian.

A.2 The requirements apply to Homes housing children under 3 years of age, from 3 through 5 years of age and for children 6 years of age and older. The text principally applies to Homes for children under 3 years of age and variances from it for Homes housing children of other age groups are indicated. Where a facility houses more than one age group, the requirements for the younger age group shall apply, unless the area housing the younger children is maintained as a separate fire area.

A.3 When a group home is located in a building containing mixed or hazardous area, within an occupancy, the separation requirements of the locally applicable building code or, if none exists, a nationally recognized model code, shall be satisfied.

B. Exit Details

B.1 Each floor occupied by children shall have not less than two remote means of egress (an operable window will be considered as one means).

B.2 Where spaces on the floor above the floor of exit discharge are used for sleeping purposes (sleeping purposes in this instance means from midnight till 6 a.m.) for children, at least one exit shall lead directly, or through an enclosed stairway, to the outside.

B.3 Where children are located on a floor below the floor of exit discharges (basement) at least one exit shall be provided directly to the outside to ground level. No facility shall be located more than one story below the ground. Any stairway to the story above shall be cut off by a 1¾ inch solid bonded core door or equivalent and shall be equipped with a self-closing device and a latch.

C. Doors

C.1 Each door in a means of egress shall be not less than 24 inches wide.

C.2 Every closet door latch shall be such that children can open the door from inside the closet.

C.3 Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency.

D. Homes in Apartment Buildings

D.1 If the two means of egress from the Home discharge to the same corridor, as in an apartment building, the means of egress shall be separated in the corridor by a smoke stop partition having not less than a 1 hour fire resistance rating.

D.2 The door in the smoke stop partition shall be not less than 36 inches wide in new construction and 32 inches wide in existing buildings. The door assembly shall have a fire protection rating of 20 minutes and shall be equipped with a self-closing device, a latch and an automatic hold open device as specified in 10-1244 of NFPA 101.

E. Minimum Construction Standards

E.1 Each building used as a Group Day Care Home shall meet the local minimum housing code and fire prevention code for the applicable class of residential construction.

F. Protection of Vertical Openings

F.1 The doorway between the floor of exit discharge and any floor below shall be equipped with a self-closing 1¾ inch solid bonded wood core door. Where the floor above the floor of exit discharge is used for sleeping purposes, there shall be a self-closing, solid bonded wood core door of 1¾ inch thickness at the top or bottom of each stairway.

G. Interior Finish

G.1 Interior finish in occupied spaces in the Home shall be no more hazardous than Class C in accordance with Section 6-2 of NFPA 101.

G.2 The interior finish in means of egress shall be Class A or B.

H. Detection Systems

H.1 Where the floor above the floor of exit discharge is used for sleeping purposes there shall be a detector which responds to products of combustion other than heat at the top of the stairs in a building 3 stories or less in height; or inside the dwelling unit used as a day care facility in a multiple dwelling.

I. Extinguishers

I.1 A portable fire extinguisher suitable for Class B fires shall be provided for the kitchen and cooking areas.

J. Heating Equipment

J.1 Any heaters in spaces occupied by children shall be separated from the space by partitions, screens or other means.

J.2 Unvented room heaters shall not be permitted. Oil and gas fired room heaters shall be installed in accordance with the applicable Standards listed in Appendix B of NFPA 101. A guard shall be provided to protect the children from hot surfaces and open flames.

K. Electrical Services

K.1 Electrical wiring in new construction shall be installed in accordance with the National Electrical Code.

K.2 In existing buildings the electrical wiring shall be sized to provide for the load. Electrical appliances shall be grounded. Receptacles and outlets serviced by extension cord type wiring are prohibited.

K.3 Special protective receptacle covers shall be installed in all areas occupied by children in Homes for children under 5 years of age.

L. Flashlight

L.1 At least one operable flashlight shall be provided for each staff member in a location accessible to the staff for use in the event of a power failure.

FAMILY CHILD DAY CARE HOMES

A. Application

A.1 This section established life safety requirements for Family Child Day Care Homes. A "family day care home" is a dwelling unit which receives for care, maintenance, and supervision one or more, but fewer than seven, children for less than twenty-four hours per day unattended by a parent or legal guardian.

A.2 The requirements apply to Homes housing children under 3 years of age, from 3 through 5 years of age and for children 6 years of age and older. The text principally applies to Homes for children under 3 years of age and variances from it for Homes housing children of other age groups are indicated. Where a facility houses more than one age group, the requirements for the younger age group shall apply.

A.3 Where family child day care homes are located in a building containing mixed or hazardous occupancy the separation requirements of the locally applicable building code or, if none exists, a nationally recognized model code, shall be satisfied.

B. Exit Details

B.1 In a one or two-family dwelling or building of unprotected wood frame construction used for child care purposes, every room used for sleeping, living, or dining purposes shall have at least two means of egress (in this instance, an operable window will be considered one means of egress), at least one of which shall be a door or stairway providing a means of unobstructed travel to the outside of the building at street or ground level. No room or space shall be occupied for living or sleeping purposes which is accessible only by a ladder, folding stairs or through a trap door. (Sleeping purposes in this instance, means from midnight till 6 am.)

B.2 Where children are located on a floor below the floor of exit discharge (basement) at least one exit shall be provided directly to the outside at grade level. No facility shall be located more than one story below the ground.

C. Doors

C.1 Each door in a means of egress shall be not less than 24 inches wide.

C.2 Every closet door latch shall be such that children can open the door from inside the closet.

C.3 Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency.

D. Stairs

D.1 Every stairway shall comply at least with the minimum requirements for Class B stairs as described in Section 5-3 of NFPA 101 in respect to width, risers, and treads and shall be maintained free of items of storage.

E. Minimum Construction Standards

E.1 Each building used as a Family Child Day Care Home shall meet the local minimum housing code and fire prevention code for the applicable class of residential constructon.

F. Interior Finish

F.1 Interior finish in occupied spaces in the Home shall be no more hazardous than Class C in accordance with Section 6-2 of NFPA 101.

F.2 The interior finish in means of egress shall be Class A or B.

G. Detection Systems

G.1 Where the floor above the floor of exit discharge is used for sleeping purposes (sleeping purposes being from midnight till 6 am), there shall be a detector which responds to products of combustion other than heat at the top of the stairs in a building 3 stories or less with open stairways; or inside the dwelling unit used as a day care facility in a multiple dwelling.

H. Extinguishers

H.1 A portable fire extinguisher suitable for Class B fires shall be provided for the kitchen and cooking areas.

I. Heating Equipment

I.1 Any heaters in spaces occupied by children shall be separated from the space by partitions, screens or other means.

I.2 Unvented room heaters shall not be permitted. Oil and gas fired room heaters shall be installed in accordance with the applicable Standards listed in Appendix B of NFPA 101. A guard shall be provided to protect the children from hot surfaces and open flames.

J. Electrical Services

J.1 Electrical wiring in new construction shall be installed in according with the National Electrical Code.

J.2 In existing buildings, the electrical wiring shall be sized to provide for the load. Electrical appliances shall be grounded. Receptacles and outlets serviced by extension cord type wiring are prohibited.

J.3 Special protective receptacle covers shall be installed in all areas occupied by children in Homes for children under 5 years of age.

K. Flashlight

K.1 At least one operable flashlight shall be provided in a location accessible to the staff for use in the event of a power failure.

OTHER SAFETY REQUIREMENTS

The Federal Occupational and Safety Law is now in effect and will apply to establishments having three or more employees. While the policies and procedures to be established under this Act are now being formulated, it should be a function of the licensing authority through its fire safety specialist to advise owners and operators of day care homes and centers of their responsibilities in connection with the law.

The following procedures shall be incorporated in the operation of homes and centers:

1. Porches, walkways, and play areas which are elevated shall have barriers to prevent falls by pre-school children.

2. Water heaters shall be equipped with thermostatic controls.

3. Stairs, walkways, ramps and porches shall be maintained free from accumulations of water, ice, or snow and shall have a non-slip surfacing.

4. Play areas and play equipment shall be maintained in a reasonably safe condition and supervised by properly trained personnel under standards to be developed by the state licensing authority.

5. All flammable materials, including fuel, pressurized cans cleaning fluids and supplies, polishes and matches shall be stored in designated cabinets or storage facilities accessible only to authorized persons. The construction of such facilities shall be in accordance with the provisions of nationally recognized standards, such as NFPA No. 30. Medical supplies, bleaches, detergents, insecticides and similar materials shall be stored in equally safe facilities.

6. Lead paint shall not be used in redecorating. Paint coatings in older buildings converted to day care center use shall be checked to assure the absence of a hazardous quantity of lead in accordance with ANS No. C66.1.

7. Clear glass panels in sliding doors, shower doors, tub enclosures, storm doors and elsewhere shall be clearly marked to avoid accidental impact and shall be provided in accordance with ANS No. 97-1. Where clear glass is used in exterior windows less than 32 inches above floor level, the glass shall be of safety grade.

8. Untreated, flammable materials shall not be used for decorative purposes, seasonal or otherwise. Non-flammable and fire-retardant treated materials are available for such purposes. The use of candles with an exposed flame shall not be allowed except as used for educational purposes and maintained under control of supervising adults.

9. Waste baskets and other waste containers shall be made of non-combustible materials.

10. Trash collection receptables and burning facilities shall be separated from child play areas.

11. First-aid kits shall be located at convenient places as may be appropriate. Standards should be developed defining the content of such kits. In centers accommodating more than 12 children one staff member shall have received certified first aid training.

12. In all day care homes and centers there shall be a single line (where available) telephone immediately accessible to staff. Immediately adjacent to the telephone shall be conspicuously posted emergency telephone numbers, including fire, police, physician, health agency and ambulance.

13. Ground areas are well drained, surfaced where necessary, and free from depressions in which water may stand.

14. Premises are free from accumulations of refuse, dilapidated structures, vermin, other health and safety hazards, or "attractive nuisances."

15. Exterior spaces are fenced or have natural barriers to restrict children from unsafe areas.

16. All buildings, utility equipment, and playground facilities are located, installed, maintained, and used to insure the safety of children.

17. The storage, collection, and disposal of garbage is conducted so as to control nuisance conditions.

18. Outside stairs have safety gates, or there are ramps to prevent small or handicapped children from falling. All stairs and ramps are provided with handrails, and landings or gates are provided beyond each exterior door and interior doors opening onto a stairway.

19. Exterior building openings, when necessary during seasonal insect emergency periods, are screened, or have other approved means of insect exclusion.

20. Except in a private home, outside doors open outward. In centers caring for more than 12 children, the major outside doors are equipped with panic hardware. If children in wheelchairs are to be in care, doors are wide enough to accommodate the chair.

21. All rooms are adequately ventilated and all rooms, corridors, halls, stairs, and porches are adequately lighted.

22. There are no open flames, open fireplaces, or floor heaters in use, and all heating elements including hot water pipes are insulated or installed in such a way that children cannot come in contact with them.

23. Approved type heating facilities, where necessary, are properly installed, maintained, and capable of maintaining a draft free temperature of 72 degrees F. at floor level in occupied rooms.

24. Furniture, equipment, and toys are appropriate to the ages of the children, are sturdily constructed without sharp edges, and present minimal hazards to children.

25. All painted surfaces accessible to children are free of toxic materials.

26. First aid supplies, medications, cleaning materials, poisons and other potentially hazardous materials are stored in small containers in cabinets inaccessible to children.

III
guidance material

for

A. ADMINISTRATIVE CONSIDERATIONS
B. ZONING FOR DAY CARE

A. ADMINISTRATIVE CONSIDERATIONS IN DAY CARE LICENSING AND REGULATION

A number of important administrative problems have been often identified that present impediments to those seeking licenses for day care. These problems include:

- The inability to place responsibility on one administration agency for licensing decisions.
- Lack of coordination between agencies involved in the licensing process.
- Varying regulations for issuance of day care licenses within the state.
- Varying policies and procedures for licensing administration.
- Confusion in regard to job responsibilities for licensing staff.

With recognition that needs, governmental structures and accepted practices differ from state to state, a single administrative solution to the problems noted is not feasible. The "principles" of administration that follow are meant as a guide to assist in the development of appropriate administrative structures and practices to resolve the problems noted above. The intent of this material is to highlight areas of administration that should receive careful consideration as administrative structures, roles and responsibilities and practice are defined. Adaptation of the specifics of what is proposed here is to be expected and encouraged.

I. ADMINISTRATIVE STRUCTURE

A. The primary agency for the licensing of children's day care programs should be a state agency which, among its responsibilities, has a major interest in and responsibility for comprehensive services to children and their families. While this agency should maintain collaborative relationships with other state agencies which also have interest in children's day care and standard setting, the authority and accountability for the regulatory function should be clearly fixed upon the one state agency designated as primary in day care regulation.

The primary agency should be at the state level because of the constitutional responsibility of government to protect the rights and welfare of its citizens, enforced where necessary by the democratic use of the power vested in the individual states by its citizens to regulate conditions which affect the health, morals, safety and general welfare of its inhabitants.

A state agency can most feasibly give consideration to the characteristics and needs of the state and its children as these differ from other states. At the same time, a state agency can allow for a broad statewide assessment of child and family needs and provide for a consistent pattern of regulations, rather than a fragmented and inequitable one differentiated at the local level.

The following agency characteristics are desirable for an effective day care regulatory program. All of these characteristics are not usually to be found in any one state department at present. (a) a clear concern and responsibility for child and family life greater than a responsibility limited to the licensing of occupations or services; (b) a demonstrated concern and responsibility for (or a clearly demonstrated potential for) the prevention of harm to children and the prevention of social impairments among citizens generally; providing service in the area of protective and developmental care; coordination of broad family and children's services; the upgrading of services for children and their parents; and a staff with training and experience which allows it to operate from a base knowledge and skill related to a wide range of needs of children and their families, such as knowledge and experience of early childhood education, child growth and development and experience in methods of nurturing such growth through work with children in groups; a commitment to work with parents in their role as decision makers; a philosophy of universal service to the total population of children in all families, rather than an orientation to problems or the prevention of problems; (c) regulatory responsibility for

other licensing programs in the area of child care; (d) a field structure with a local identity; and (e) a mechanism for meaningful input by the community at the grass roots level.

B. Program accountability for all day care licenses should be established statewide. The organizational structure should place responsibility for budgeting, regulations, policy and program performance evaluation at the state level.

Several studies of day care licensing have pointed out the need for improvements in organizational structure. One study, after careful analysis of day care licensing indicated that, "By far the biggest problem was related to difficulties which stem from the necessity of obtaining clearance from so many departments before a license is issued." A later analysis sponsored by the Office of Child Development and the Office of Economic Opportunity found that, "The state licensing authorities indicated that the best ways of speeding up the licensing process, without loss of effective program control, are to increase the licensing staff, improve administrative procedures, reorganize local staff, and develop more clearly written state requirements, in that order."

In some states where there is an organization which is county administered but state supervised, the local staff may be under the direct responsibility of the county director. However, here, as at the state level, it is important to make clear that this is not a child placement function, but a regulatory function and, therefore, the identity of individuals carrying licensing responsibility at the county level must be protected. In those instances where it is desirable for the administration of day care licensing for family day care homes to be delegated or contracted to a county, the funding for the staff should be provided by the state based upon the size of workloads, the licensing program in the county should be evaluated from the state level, and the county director should be held accountable for the efficiency of the day care home licensing program.

C. The responsibilities for day care licensing should be with a specific identifiable licensing unit.

This concept is supported by three basic premises:

1. The significance of the program is measured by its location within the departmental hierarchy.

2. Accountability requires being able to identify who or what groups make decisions.

3. A program must be highly visible if it is to receive necessary funding.

Day care licensing should be placed within a bureau or division having licensing responsibility for all child care programs. Whenever day care licensing is placed in a bureau having broad responsibilities, it is important that the organizational structure clearly identify responsibility and accountability for the day care licensing functions.

D. The importance of the day care licensing function should be recognized by placing the administrative officer responsible for this function at the broad policy making level of the departmental hierarchy. The management responsibilities of the administrative officer should not be diluted by his assignment to other non-licensing functions.

As previously indicated, the relative significance of the program is measured by its location within the departmental hierarchy. The spokesman for day care licensing must be an effective voice for this program, which he can be only if he has access to and is part of the decision making process at the highest level within the department.

The chief administrative officer for day care licensing should be clearly identified as carrying the total day care licensing responsibility. To broaden his job responsibility to include responsibilities for day care operational programs or child placement only leads to confusion as to his responsibility, which is regulation of day care licensing programs.

E. Advisory board on day care licensing should be established at the state level. The policy board should

be composed of:

1. Proportionate representatives of the ethnic, culturals, income level, racial, urban and rural composition of parents of children served.

2. Operators of licensed day care facilities.

3. Professionals in the field of child development, health and fire safety.

4. Representatives of other state agencies relevant to child care.

If other child care licensing is handled by the same licensing unit, the Policy Board should be expanded in order to be representative of all interests, individuals, and groups affected by child care licensing.

There should be equal representation between parents of children served and licensees and total of those two groups should constitute not less than two-thirds of the total members of the Board.

A Policy Board composed of those persons most intimately associated with day care–parents, operators, professionals, and officials–can be most helpful to the licensing agency and the director. A Board cannot only provide assistance on specific issues, but can also assist the agency in establishing goals for the future and generate support necessary to reach goals. Such a Board will also be helpful as a "link" between the agency and the community by which the agency may keep abreast of the attitudes and concerns of community members. Since licensing regulations should reflect what the community believes is necessary for protection of children, such a communication link is necessary.

Where a state level advisory group has been established with similar concerns, i.e., for Day Care or other such purpose, it may be feasible to utilize such body for licensing as well.

F. Licensing representatives should be assigned to a specific geographic area which is seldom changed. Other functions should not be combined with the licensing function.

The administrative structure outlined here is based on a strong presumption that except for the top level staff, all staff will be regionally and locally based. The establishment of an effective structure for licensing is contingent upon working knowledge of the local situation by the licensing representative, and by knowledge that his job responsibilities will not be diluted by the assignment of other duties.

II. ROLES AND RESPONSIBILITIES WITHIN THE DAY CARE LICENSING STRUCTURE

A. The state agency should be responsible for establishing statewide administrative policies and procedures based on the state licensing statute, and for ensuring that these policies and procedures are available for review by the general public.

In order to avoid inconsistency in interpretation of the statute and regulation by various subdivisions of the state and by various staff members involved in the licensing process, specific written policies and procedures should be developed at the state level for all staff units.

These policies and procedures should clearly describe the following steps in the licensing process: (1) application; (2) licensing study; (3) approval or rejection of the request for licensing; (4) supervision of licensees; and (5) termination of the licensee.

It is particularly important that the procedures established for revocation of licenses ensure prompt review by the administration agency upon appeal to the court on unfavorable decisions reached by the licensing unit be clearly established.

Constitutional rights of affected people or associations are protected through the requirement of a

public hearing preceded by advance notice with opportunity to identify hardship areas and present an opposite point of view for consideration by the licensing authority. Procedures for hearings should be such that the conduct of the hearing is objective and dignified. A hearings examiner should be appointed to assure that the hearing is conducted by a person or persons sufficiently removed to assure protection and freedom from bias. However, the hearings examiner should have some degree of familiarity with the subject area. The findings should be established to permit request for a court injunction in the event there is evidence of immediate danger to children.

Materials related to the licensing process, revocation of licenses and hearing procedures should be in pamphlet form and distributed widely to the general public. Policies in regard to the operation and interpretation of the regulations should be maintained in the offices of the licensing bureau and be available for public review at any time. In states where there is a substantial group of citizens whose primary language is other than English, the state agency should assume responsibility for publishing policy and procedures in the language of that group.

B. The state agency should be responsible for the issuance and periodic revision of licensing regulations.

Regulations must be seen as the basic protective level on the basis of which a license is granted. The application of licensing regulations is related to the concept of "prohibition-permission," that is, a service is prohibited except under conditions established by the licensing authority in the form of regulations. Such regulations describe the minimum performance required or expected of a day care facility. Those who wish to provide care for children require information relative to the specific regulations they must meet. Regulations should not be so high that they are unobtainable, or so low that they are not in the best interests of children.

If licensing regulations are to be effective, they must be:

1. Understandable to any citizen,
2. Specific enough that any person knows what is to be done, and what is not to be done,
3. Enforceable, in that they are capable of measurement, and
4. Comprehensive enough to offer necessary protection.

The process of developing regulations should include the following steps:

- Historical analysis and preparation of initial draft,
- State advisory board review,
- Community review and second revision,
- Public hearing, third revision, promulgation and publication.

It is important that those to be affected by the regulations which are currently to be enacted are involved in their formulation from the beginning. In the case of day care regulations, groups affected are: (1) the child in care or needing care, (2) his parents, (3) the provider, and (4) the community at large. The contributions of individuals in these groups must come early in the formulation of regulations before positions have been taken and viewpoints have congealed and are beyond modification. These groups should be encouraged and assisted in initiating regulation revisions as necessary.

Having moved to this stage of development, the regulations should be ready for public hearing and for further revision by the State Advisory Board following the public hearing. Having been reviewed and approved by the Board, they are then ready for promulgation and publication.

Regulations once established should be subject to major revision *once every three years* with public

notice made at time of such planned revision, and should be reviewed annually for possible minor revision or clarification. The licensing unit should keep a log of complaints, comments and concerns which have been expressed regarding the regulations. The log will provide a basis for major and minor revisions of the regulations. Constant change in the regulations, however, should be avoided. Frequent minor revision can only lead to confusion on the part of the general public and lead to failure in compliance.

Regulations covering fire and health safety for day care centers and for day care homes should be developed in conjunction with fire and health officials.

Health and fire safety regulations should be established on a statewide basis. Even when these regulations are contained in other statutes the licensing representative can be the coordinator and expediter of the process.

Note:

Programs under public auspices should be operated at a level as high or higher as that required by the licensing standards.

The state through the licensing agency should not establish regulations applicable to private day care operators which public agencies operating day care programs are unable or unwilling to meet. Although licensing is not the appropriate means of control of a public agency, it is consistent to require through administrative rule, if not provided for through statute that public agencies meet the licensing requirements.

C. The state licensing agency should be responsible for ensuring that technical assistance is made available to all licensees and applicants for day care licenses.

If an adequate supply of good quality day care is to be developed and maintained, the state agency has a continuing responsibility to assist applicants to qualify for a license and to help licencees improve and maintain the quality of their programs.

Licensing representatives throughout the state should be required to offer assistance and consultation as a regular part of their duties. Although the licensing representative should be a well-trained generalist in the area of day care, and able to assist day care licensing applicants and licensees in matters of compliance and program improvements, specialists are most valuable in this regard. Most communities have many skilled specialists or experienced individuals who can offer valuable assistance to day care planners and operators either in designing programs or solving problems. Often, because of their personal interest such experts will provide their services free of charge to public and non-profit operators. Sometimes their services are available through the agency or organization with which they may be associated. However, operators, when able, are usually pleased to pay for such services. A registry of such consultants would not only provide for identification of talents available in the state, but also provide some assurance as to the proven quality of expertise available.

A registry of consultants, including professionals in child development, health, nutrition and management, parents of children in day care who have special knowledge of community and cultural needs and attitudes, and others with specific skills or experiences which would be useful to day care operators should be established at the state level and made available on the local level. Local communities should be encouraged to identify such consultants, and orientation should be provided to them by the licensing unit. Licensees and applicants should be informed of the availability of consultants and oriented as to how consultants can assist in helping them attain regulation compliance and program improvements. Continuous listing of consultants on the registry should be based on demonstrated interest in the program through participation in orientation and other meetings and frequency and quality of consultations provided.

Knowledge by operators that only the names of those consultants who have demonstrated interest and skills are maintained on the registry will engender confidence in referrals.

D. An Advisory Board on day care licensing should:

1. Review rules and regulations for the operation and maintenance of day care facilities and the granting, suspending and revoking of both provisional and regular licenses.

2. Review and advise on requests for regulation waivers.

3. Recommend administrative policy including the review of three year policy issuances.

4. Propose legislation related to day care licensing.

E. The statutory responsibilities of the day care licensing staff should include:

- Assisting in development of regulations for day care licensing.

- Evaluation of day care programs and issuance, denial or revocation of licenses.

- Ongoing supervision of licensees and consultation to individual programs on the establishment and improvement of services to children.

- Stimulating interest in the coordination and improvement of day care services and participation in the activities of groups formed for such purposes.

The licensing statutes in most states have given responsibility to the licensing authority in the six areas described above. While all the responsibilities are interrelated and must be integrated, such responsibility has unique purposes.

The effectiveness of the licensing operation is contingent upon the entire organization, but of particular importance are the licensing representatives throughout the state. Their role is part regulatory, part consultation and part community organization.

1. Establishment and revision of day care regulations.

   As noted earlier, community involvement in the process of developing and revising regulations is essential to an effective regulating process. The day care licensing representative at the regional or local level is expected to be knowledgable about local needs and views, and to ensure that these are fully communicated to the state licensing agency and the Advisory Board. Licensing representatives should personally play a major role in establishing and revising regulations.

2. Evaluation of Day Care Programs and Issuance of Day Care Licenses.

   Licensing representatives should develop a strong working relationship with local zoning, fire, health, and safety officials for purpose of evaluating and licensing day care programs. Because of the problems in coordination of clearances with various authorities, the day care licensing representative, fire safety and health safety representatives, and other inspecting agency representatives in a specific area would do well and work together as a *team* in evaluating licensing requests for new facilities. Teamwork provides each member an opportunity to increase his knowledge of the other person's responsibility and close working relationships can be established, conflicts resolved, and decisions reached.

   According to a study made by Consulting Services Corporation for the Office of Child Development, "the points of delay attributed to government offices by state licensing representatives and the approximate number of days delay are as follows:

Fire inspection	65 days
Sanitary inspection	35 days
Health inspection	35 days
Zoning	50 days

Teamwork on the part of all officials involved in the licensing process is essential to timely and constructive decisions regarding the application and will greatly reduce confusion for the applicant.

3. Supervision and Consultation.

The licensing representative responsible for the supervision of day care programs should also offer consultation. Licensing representatives, because of their training and experience in the area of day care, are in a unique position to evaluate a program not only in relation to the regulations but also in relation to recommended goals or standards which are promulgated by national organizations. Because of their broad exposure to various day care programs within a geographic area, and the literature on day care and staff development, the licensing representative directly or through referral of consultants, is able to offer new ideas to operators to assist in solving problems or in improving services.

Assumption of the consultative role should always be on a *when requested* basis. The licensing representative must be clear as to the difference between his responsibilities as a regulator of day care programs and his role to assist them in the improvement of the level of their programming. If he is clear about the difference between these two roles, he will be in a better position to clarify this for others.

The consultation relationship develops over a span of time and relies on the licensing representative's skill and competence to assist in improving the program. Although they are frequently omitted in job descriptions, consultation responsibilities should have a fundamental place in the development of a sound licensing program.

4. Stimulating community awareness and involvement.

The licensing representative should provide leadership in developing community awareness of the need for child protection through licensing.

Public understanding of the importance of licensing is basic to support of legislation and to its implementation. Many people violate the provisions of licensing requirements because of their unawareness of the regulations or their sincere feelings that they are of no value. A program of community education regarding the importance of licensing, developed and directed by the licensing unit, but with active involvement of consultants, day care staff and parents in the development and implementation, should be carried out utilizing the resources of mass media as well as neighborhood information systems.

Licensing representatives within a community should play a strong role in the improvement of day care services. This role should begin with a commitment to the involvement of parents, and professionals, and others with specific skills or experiences as consultants, in day care programs.

Note:

In order to facilitate the performance of these critically important duties, standard workloads for licensing representatives should be established at the state level. The workload carried by a licensing representative should be based on an evaluation of the tasks assigned to the licensing representative, and time required for the performance of such tasks, and the funds available to underwrite the entire licensing budget.

Care should be taken not to establish unrealistic job descriptions for the tasks required of various positions. Sufficient staff must be provided to carry on the responsibilities assigned and assignments must be capable of being accomplished, otherwise licensing representatives will individually decide what portions of the assigned job they are able to perform and, on the basis of these individually decided priorities, statewide service delivery will become uneven.

III. PRINCIPLES FOR STAFF SELECTION, RETENTION, AND DEVELOPMENT

A. Staff Selection.

The effectiveness of the licensing unit will be directly measured by the performance of staff members. Those hired for positions within this unit must be people with qualifications necessary for the successful fulfillment of their jobs as described.

In addition to highly trained professional staff, the use of Community Aides to Assist Licensing Representatives is recommended.

Very often, the parents of children in day care, because of knowledge of the community and their evaluation of the care given to their children, are in a uniquely important position to assist in the evaluation of the effects of licensing operations. Additionally, there are many functions which historically have been carried out by the licensing representatives that could be performed by other individuals who have required skills but not formal academic training.

B. Staff Retention.

A study of day care licensing found that, "existing standards are not interpreted uniformly from one year to the next, and from one geographic area to the next due to staff turnover and inadequate training programs."

It is important that the staff within the licensing unit be stable because it is only on the basis of the establishment of continuing relationships at the local level that the licensing unit can effectively reach its goals. One essential means to the solution of this problem is the provision of adequate basic compensation to staff and increased compensation for experience and increased competence gained through training.

C. Staff Development

A strong staff development program should be implemented in order to improve the level of functioning and in order to meet the objectives of the day care licensing program.

1. General goals

In the development of a staff training program, clear goals must be established. The responsibilities of licensing as outlined earlier in this report must be the major focus of such training. The licensing staff must clearly understand:

- The responsibility for operating within the legal structure.
- The responsibility for evaluation of programs in relation to specific regulations.
- The difference between licensing and consultation and the responsibilities and tasks of each.
- The role of the licensing representative and specific tasks to be performed.

2. Specific goals

The specific goals in the staff development program for day care center and day care home licensing staff should be to:

- Identify a core body of knowledge useful for the effective administration of licensing;
- Synthesize and organize existing knowledge so that it can be communicated more effectively;
- Reinforce previous and current child development knowledge;

- Give licensing representatives some understanding of basic skills involved as a consultant, group worker and community organizer;

- Relate training materials to relative and innovative demonstration projects; and

- Evaluate effects of training and the licensing representative's understanding of licensing functions and better role performance.

These objectives are designed to assist the individual licensing representative in performing his job functions and to strengthen the licensing operation by providing a unified direction of purpose for all licensing staff.

In conclusion, it must again be emphasized that the general principles and specific recommendations contained in this section are not prescribed as a model which every state should follow in its entirety. The problems to which these recommendations are addressed, however, are near-universal; it is hoped that this approach will serve as a stimulus to creative solutions at the state and local level throughout the nation.

B. ZONING FOR DAY CARE

I. Introduction:

Zoning is a method of regulating use of land by local government and is basically a local prerogative. It takes place under state enabling legislation, but neither the state nor the federal government can impose zoning on a locality. Because it is a local power, zoning varies enormously from one locality to another. Therefore, it is impossible to write a model zoning code that could be adopted widely.

It should be noted that zoning should be used only for regulating use of land and buildings, size of buildings and yards, and such subsidiary matters as parking, fences, etc. Many older zoning codes contain material that regulates building construction, fire and safety standards. This level of regulation is not a proper use of zoning.

Zoning approval is the first step in the process of securing a license for a day care facility. Application of requirements that are sometimes inappropriate, particularly for family day care homes, often causes delays that unnecessarily constrain the provision of day care.

High costs involved in attempting to meet these requirements are a further constraint.

Treatment of Day Care in Zoning Ordinance

In place of a detailed model ordinance, two exhibits are offered for use in developing and revising local zoning ordinances.

- Characteristics of Day Care Facilities, and
- Recommended Zoning Criteria for Day Care Uses.

Two basic assumptions underlie the presentation:

- The establishment of day care services and facilities, wherever there is need, is a necessary public objective, and

- Day care programs should be treated as community facilities (not as proprietary uses restricted to commercial zones).

For purposes of the zoning ordinance, the location of day care facilities should be considered as comparable to elementary schools. In both day care facilities and elementary schools, children are present for a specific period of time under the supervision of adult staff. There is a greater degree of supervision in day care facilities, and in the majority of them there are fewer children than in an elementary school. Consequently, there will be less likelihood of negative effects upon neighboring property.

Treating day care uses as community facilities means that day care should be permitted to locate in any zoning district as long as need has been demonstrated, licensing requirements have been met, and no physical hazard to children can be reasonably anticipated. Treating day care facilities in the same manner as elementary schools means that they could be established without the lengthy processing time involved in obtaining a conditional or special use permit.

The model provisions are intended to be applied flexibly for two reasons: life styles vary from community to community, and differences of scale and need occur in developed and developing areas.

Flexible application of zoning standards would allow more than minimal standards where possible, but would not deny the establishment of day care facilities where need exists.

Three problem areas relating to zoning for day care may be identified. First, zoning ordinances often restrict facilities to a few areas of the community; in other words, permit them only in a few zoning districts. A sponsor of a prospective day care program may discover that such facilities are not permitted where need for

day care services has been determined.

If the day care facility *is* permitted, the prospective sponsor may be confronted with a second zoning hurdle—the securing of a conditional or special use permit. The time delay for such a permit application averages sixty days.

A third obstacle involves standards required in the zoning ordinance which are too rigid or which do not agree with day care licensing standards. Typical of this problem is an excessive minimum lot size requirement or the requirement of too large an outside play area.

Modular Housing

The development of factory built housing has implications for the field of day care since it is possible that modular units could receive widespread use as such facilities. Eleven states (California, Georgia, Hawaii, Mississippi, Maryland, New Mexico, North Carolina, South Carolina, Tennessee, Virginia, and Washington) have enacted legislation concerning factory-built housing and have set up agencies to develop standards. These standards will, for the most part, affect the building code. In each of these states the state regulation will have force of law at the local level. However, a statement in the zoning ordinance to ensure compliance of such housing with the district regulations is appropriate, where the use of factory-built housing is anticipated.

Conclusion

Day care facilities should be permitted by the zoning ordinance, not limited. Licensing requirements should be accepted as ensuring the health, safety, and welfare of children attending day care facilities; they should not be duplicated in the zoning ordinance.

II. Model Zoning Provisions for Day Care, with Commentary

DEFINITIONS:

Day Care Facilities

For the purposes of this model, the facilities described, furnishing care, supervision and guidance of a child or group of children, unaccompanied by parent or guardian, for periods of less than 24 hours per day, shall be defined as follows:

1. *Family Day Care Home*: An occupied residence in which a person provides day care for children other than his/her own family and the children of close relatives. Such care in a family day care home is limited to that care given to 12 or fewer children, including children living in the home and children of close relatives cared for in the home. (This definition includes the type of facility often called "group day care home".)

2. *Day Care Center*:

(a) Any place other than an occupied residence which receives children for day care.

(b) Any place including an occupied residence which receives 13 or more children for day care.

Definitions are an important part of zoning ordinances. These definitions are based on the number of children served and the type of facility in which the day care is provided. The terms are defined in order to simplify, clarify, and make the ordinance more understandable.

Exhibit A, *Characteristics of Day Care Facilities*, describes the various levels of land use association with each type of facility.

Exhibit B, *Recommended Zoning Criteria*, describes items that should be considered by zoning officials in developing day care provisions for local ordinances.

Commentary follows each exhibit.

Exhibit A

Characteristics of Day Care Facilities

Day Care Facility	A. Description of Use	B. Performance Characteristics: Traffic Generation	B. Performance Characteristics: Other Nuisances (i.e., Noise)	C. Exterior Environmental Requirements
Family Day Care Home	Private Residence 1-12 Children	Same as Typical Residence		Fenced Play Space or Park Access per Licensing Requirements
Day Care Center	(1) Structure other than Private Residence	Comparable to Elementary School with Same number of Children		Outdoor Play Area* (Fenced) Access to Park, Roof or other Usable Area per Licensing Requirements. Off-street Loading and Delivery, Parking: Per Licensing Standards for Similar Use. Accessibility for Fire and Other Emergency Vehicles.

*Adequately buffered from abutting uses.

EXHIBIT A–COMMENTARY:

1. **Family Day Care Home:**

   A. Family day care home requires a private residence setting to maintain home atmosphere. A family day care home with 7-12 children requires a larger home.

   B. Small number of children creates no problem.

   C. Play space required by licensing can usually be provided by residential yards in suburban areas or by roof area or public park accessibility in urban situations. Larger play space is required for a family day care home with 7-12 children. Availability of safe and adequate play space will in large part determine the type and location of such space.

2. **Day Care Center:**

   A. Typical residence does not provide adequate facilities for more than twelve children. Most day care centers normally accommodate between thirty and sixty children.

   B. Visible and audible activities of a day care center closely parallel those of a small elementary school.

   C. Day care center requirements from a community standpoint also are closely similar to a small elementary school.

Suggested off-street parking standards for non-urban situations are:

1 space per 2 staff members
1 space per 10 children

When space is available, it is desirable to provide buffer distance between the play area and the property line. However, a perimeter wall may serve in lieu of this buffer.

Exhibit B

Recommended Zoning Criteria

Day Care Facility	A. Zoning District	B. Lot-Yard-Signs	C. Play Space	D. Outdoor Play Activities	E. Off-Street Parking and Loading	F. Licensing Requirements
1. Family Day Care Home	All Residential districts—in private residence	Same regulations as district in which located	Must meet state and/or local licensing standards	Within fenced area or accessible park: limited to 8AM-8PM	Same regulation for similar use in district in which located	Must meet state and/or local standards
2. Day Care Center	Any district except heavy industrial or similar high-hazard district*		(Buffers must be provided)			

*Conditional permit required.

EXHIBIT B–COMMENTARY:

1. **Family Day Care Home:**

   A. Family day care homes are necessary in all types of residential areas to meet the need for child development day care programs. Family day care homes require a private residence setting to maintain home atmosphere.

2. **Day Care Center:**

   A. Day care centers should be permitted in every zoning district except those in which hazards may be experienced.

   B. In zones where hazards may be anticipated (industrial) day care centers should be allowed by conditional permit that will ensure the health, safety and welfare of the children involved.

   C. When space is available, it is desirable to provide buffer distance between the play area and the property line. However, a perimeter wall may serve in lieu of this buffer.